

AMENDED IN ASSEMBLY MAY 19, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1016

Introduced by Assembly Member Villines

(Coauthors: Assembly Members Adams, Bill Berryhill, Duvall, Emmerson, Fletcher, Gaines, Gilmore, Hagman, Harkey, Jeffries, Knight, Miller, Niello, and Smyth)

February 27, 2009

An act to amend Section 1250.310 of the Code of Civil Procedure, to amend Section 14074 of the Corporations Code, to amend Sections 17910.1, 17911.2, 17911.3, 17911.4, 17911.6, 17912, 17912.2, 17925, and 41304 of the Education Code, to amend Sections 32320, 32321, 32322, 32940, and 32942 of, and to repeal Section 32208 of, the Financial Code, to amend Sections 9100 and 9101 of the Fish and Game Code, to amend Sections 11553, 12802.5, 12805, 14450, 14684, 14684.1, 15814.22, 15814.23, 15814.30, 15814.34, 66645, and 66646 of, and to amend and renumber Section 15814.25 of, the Government Code, to amend Sections 3808, 3810, 3822, 3822.1, 3822.2, 4799.16, 6815.2, 14584, 21080, 25104, 25106, 25110, 25112, 25123, 25205, 25207, 25212, 25214, 25216.5, 25217.1, 25218, 25219, 25220, 25221, 25222, 25223, 25224, 25225, 25226, 25301, 25302, 25303, 25304, 25305, 25305.5, 25306, 25320, 25321, 25322, 25323, 25324, 25354, 25356, 25357, 25358, 25362, 25364, 25366, 25400, 25401, 25401.2, 25401.5, 25401.6, 25401.7, 25402, 25402.1, 25402.3, 25402.6, 25402.9, 25403, 25403.5, 25403.8, 25404, 25410.5, 25410.6, 25411, 25412, 25413, 25414, 25415, 25416, 25417, 25417.5, 25419, 25420, 25421, 25426, 25433.5, 25434, 25434.5, 25435, 25436, 25441, 25442, 25442.5, 25442.7, 25443, 25443.5, 25445, 25449, 25449.1, 25449.3, 25449.4, 25494, 25496, 25500, 25500.5, 25501, 25501.7, 25508, 25517, 25518, 25519, 25520, 25522, 25523, 25524.1, 25524.2, 25525, 25526, 25527,

25528, 25529, 25530, 25531, 25534, 25534.1, 25538, 25539, 25540, 25540.1, 25540.2, 25540.3, 25541, 25541.1, 25541.5, 25542, 25543, 25601, 25602, 25603, 25603.5, 25608, 25610, 25616, 25617, 25618, 25620, 25620.1, 25620.2, 25620.3, 25620.4, 25620.5, 25620.6, 25620.7, 25620.8, 25620.11, 25630, 25678, 25679, 25696, 25696.5, 25697, 25700, 25701, 25702, 25703, 25704, 25705, 25720, 25721, 25722, 25722.5, 25723, 25741, 25742, 25743, 25744, 25747, 25748, 25751, 25771, 25772, 25773, 25802, 25803, 25900, 25901, 25902, 25911, 25912, 25942, 25967, 25968, 26004, 26011.5, 26011.6, and 30404 of, to amend the heading of Chapter 3 (commencing with Section 25200) of Division 15 of, to add Sections 3806.5, 25104.1, 25104.2, 25205.5, 25207.5, 25208, 25544, and 25545 to, to add Chapter 3.5 (commencing with Section 25227) to Division 15 of, to repeal Sections 3805.5, 25113, 25217, 25217.5, 25449.2, 25502, 25503, 25504, 25504.5, 25505, 25506, 25506.5, 25507, 25509, 25509.5, 25510, 25511, 25512, 25512.5, 25513, 25514, 25514.3, 25514.5, 25515, 25516, 25516.1, 25516.5, 25516.6, 25520.5, 25524.5, 25540.4, and 25540.6 of, and to repeal and add Sections 25107, 25120, 25200, 25201, 25202, 25203, 25204, and 25206 of, the Public Resources Code, to amend Sections 332.1, 346, 348, 350, 352, 353.7, 360, 365, 366.1, 366.2, 384, 398.2, 398.3, 398.5, 399.25, 399.8, 399.11, 399.12, 399.13, 399.15, 399.16, 454.5, 464, 848.1, 1001, 1731, 1768, 1822, 2774.6, 2826.5, 2827, 3302, 3310, 3320, 3330, 3341, 3341.1, 3341.2, 3345, 3370, and 9502 of, to add Sections 322, 345.1, 345.2, and 411 to, to repeal Sections 3325, 3326, and 3327 of, to repeal Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of, and to repeal and add Section 3340 of, the Public Utilities Code, and to amend Section 80000 of, and to add Sections 80001 and 80001.5 to, the Water Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1016, as amended, Villines. Energy: commission and department.

(1) Existing law establishes the State Energy Resources Conservation and Development Commission, the California Consumer Power and Conservation Financing Authority, and the Electricity Oversight Board with jurisdiction related to energy matters. Existing law provides the California Public Utilities Commission with jurisdiction over the certification of natural gas and electric facilities. Existing law also provides the Office of Planning and Research, the Department of Water Resources, the Department of General Services, and the Office of the

State Architect with jurisdiction over certain energy-related matters. Existing law ~~provide~~ *provides* the State Energy Resources Conservation and Development Commission with the jurisdiction over the certification of thermal powerplants.

This bill would abolish the State Energy Resources and Conservation Commission, the California Consumer Power and Conservation Financing Authority, and the Electricity Oversight ~~board~~ *Board*. The bill would create the Department of Energy, headed by a Secretary of Energy, and would create the California Energy Commission and the Office of Energy Market Oversight within the department. The bill would provide for the creation of various divisions and subdivisions as deemed necessary by the secretary. The secretary would be appointed by, and hold office at the pleasure of, the Governor, subject to confirmation by the Senate. The bill would authorize the Governor to appoint an Assistant Secretary of Energy who would serve at the pleasure of the secretary.

The bill would provide that the California Energy Commission consists of the following members: the Secretary of Energy who would be the chair of the commission, 4 members of the public with qualifications, as specified, appointed by the Governor, subject to confirmation by the Senate, the chief executive officer of the California Independent System Operator, the Secretary of the Natural Resources Agency, and the president of the California Public Utilities Commission. The bill would provide that the chief executive officer of the California Independent System Operator, the Secretary of the Natural Resources Agency, and the president of the California Public Utilities Commission shall serve as ex officio, nonvoting members of the commission. The bill would specify that the public members shall serve for a term of 4 years.

The bill would vest the Office of Energy Market Oversight with the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Electricity Oversight Board.

The bill would vest the new department and the California Energy Commission with the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the State Energy Resources Conservation and Development Commission and the California Consumer Power and Conservation Financing Authority, as specified.

The bill would transfer the jurisdiction over the certification for electric facilities from the Public Utilities Commission to the Secretary of Energy. The bill would also transfer jurisdiction of certain

energy-related matters from the Office of Planning and Research, the Department of Water Resources, the Department of General Services, and the Office of the State Architect to the Department of Energy or the California Energy Commission, as specified. The bill would also rename the California Consumer Power and Conservation Authority Fund as the California Consumer Power and Conservation Financing Fund.

(2) Existing law requires a person proposing to construct a thermal powerplant or electric transmission line on a site to submit to the State Energy Resources Conservation and Development Commission a notice of intention to file an application for the certification of the site.

This bill would repeal this requirement.

(3) Existing law prohibits, with specified exceptions, land use for a nuclear fission thermal powerplant unless the State Energy Resources Conservation and Development Commission certifies that specified conditions exist.

This bill would, instead, prohibit land use for a nuclear fission powerplant unless the California Energy Commission certifies that specified conditions exist.

(4) Existing law prohibits the State Energy Resources Conservation and Development Commission from certifying a facility that adds generating capacity to a potential multiple facility site in excess of the maximum allowable capacity determined by the commission.

This bill would repeal this prohibition.

(5) The existing State Assistance Fund for Enterprise Act of 1989 establishes the State Assistance Fund for Enterprise, Business, and Industrial Development Corporation and provides that a member of the State Energy Resources Conservation and Development Commission is a member of the board of directors of the corporation.

This bill would eliminate the commission's membership on the board of directors of the corporation.

(6) The existing Energy Conservation Assistance Act of 1979 establishes, until January 1, 2011, a loan program to provide loans to specified eligible institutions to maximize energy use savings in existing and planned buildings ~~of~~ or facilities. The act requires an eligible institution receiving an allocation to compute, annually at the conclusion of each fiscal year, the cost of energy saved as a result of implementing a project funded by the allocation.

This bill would extend the program to January 1, 2026, and would, additionally, include a joint powers authority, as defined, as an eligible

institution. The bill would, additionally, define energy conservation measures to include measures that would reduce peak load. The bill would, instead, require an eligible institution to make the above computation annually for 3 years after the completion of the energy conservation project.

(7) Existing law establishes, until January 1, 2010, a financial assistance program by providing loans to local jurisdictions for the purposes of reducing energy costs by providing staff training and support services, including planning design, permitting, energy conservation, comprehensive energy management, project evaluation, and development of alternative energy resources. Existing law requires the State Energy Resources Conservation and Development Commission, no later than 3 year after the imposition of a fee pursuant to the program, to report to the Legislature in the commission's biennial energy conservation report on the effects of the fees on alternative public and private financing for public sector programs.

This bill would extend the financial assistance program to January 1, 2026, and would, additionally, authorize the use of funds from the loans to purchase, maintain, and evaluate peak load reduction equipment for existing and planned facilities. The bill would also repeal the above reporting provision.

(8) The bill would make conforming changes in existing law.

(9) The bill would provide that the provisions of the bill are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1250.310 of the Code of Civil Procedure
2 is amended to read:
3 1250.310. The complaint shall contain all of the following:
4 (a) The names of all plaintiffs and defendants.
5 (b) A description of the property sought to be taken. The
6 description may, but is not required to, indicate the nature or extent
7 of the interest of the defendant in the property.
8 (c) If the plaintiff claims an interest in the property sought to
9 be taken, the nature and extent of the interest.
10 (d) A statement of the right of the plaintiff to take by eminent
11 domain the property described in the complaint. The statement
12 shall include:

1 (1) A general statement of the public use for which the property
2 is to be taken.

3 (2) An allegation of the necessity for the taking as required by
4 Section 1240.030; where the plaintiff is a public entity, a reference
5 to its resolution of necessity; where the plaintiff is a quasi-public
6 entity within the meaning of Section 1245.320, a reference to the
7 resolution adopted pursuant to Article 3 (commencing with Section
8 1245.310) of Chapter 4; where the plaintiff is a nonprofit hospital,
9 a reference to the certificate required by Section 1260 of the Health
10 and Safety Code; where the plaintiff is a public utility and relies
11 on a certification of the Secretary of Energy or a requirement of
12 the secretary that development rights be acquired, a reference to
13 that certification or requirement.

14 (3) A reference to the statute that authorizes the plaintiff to
15 acquire the property by eminent domain. Specification of the
16 statutory authority may be in the alternative and may be
17 inconsistent.

18 (e) A map or diagram portraying as far as practicable the
19 property described in the complaint and showing its location in
20 relation to the project for which it is to be taken.

21 SEC. 2. Section 14074 of the Corporations Code is amended
22 to read:

23 14074. The agency shall enter into an agreement with the
24 Department of Energy to assist small business owners in reducing
25 their energy costs through low interest loans and by providing
26 assistance and information.

27 SEC. 3. Section 17910.1 of the Education Code is amended to
28 read:

29 17910.1. As used in this part, the following terms have the
30 following meanings:

31 (a) "Superintendent" means the Superintendent of Public
32 Instruction.

33 (b) "Fund" means the Katz Schoolbus Fund created pursuant
34 to Section 17911.

35 (c) "Department" means the Department of the California
36 Highway Patrol.

37 (d) "Program" means the Katz Safe Schoolbus Clean Fuel
38 Efficiency Demonstration Program.

39 (e) "Schoolbus" means a schoolbus, as defined in Section 545
40 of the Vehicle Code, which is Type 1 and publicly owned.

1 (f) “Local educational agency” means any of the following:

2 (1) A school district.

3 (2) A county office of education.

4 (3) A regional occupational program or center.

5 (4) A joint powers agency that operates publicly owned
6 schoolbuses.

7 SEC. 4. Section 17911.2 of the Education Code is amended to
8 read:

9 17911.2. The Department of Energy shall determine the local
10 educational agencies that are to receive replacement schoolbuses
11 for participation in the program.

12 SEC. 5. Section 17911.3 of the Education Code is amended to
13 read:

14 17911.3. In determining which candidate schoolbuses will be
15 selected for replacement, the Department of Energy shall first, in
16 coordination with the department and the superintendent, determine
17 which local educational agencies meet the demonstration project
18 criteria.

19 SEC. 6. Section 17911.4 of the Education Code is amended to
20 read:

21 17911.4. All candidate schoolbuses selected by the Department
22 of Energy for replacement shall be inspected by the department to
23 determine all of the following criteria:

24 (a) The dates of manufacture of the schoolbuses. The
25 schoolbuses shall have been manufactured prior to April 1, 1977,
26 and shall have been certified during the prior school year pursuant
27 to Section 2807 of the Vehicle Code.

28 (b) The total accumulated mileage of each candidate schoolbus,
29 as supported by the owner’s records and records of the department.
30 Any records maintained by the superintendent may also be
31 considered in determining the true accumulated mileage of a
32 candidate schoolbus. Only mileage accumulated on the candidate
33 schoolbus during usage by the applicant district may be considered
34 by the commission as mileage under this subdivision.

35 (c) The average number of miles per day each candidate
36 schoolbus traveled during the prior school year and to date during
37 the current school year, as evidenced by the owner’s records. Any
38 records maintained by the department or by the superintendent
39 may also be considered in determining the true average daily miles
40 of a candidate schoolbus.

(d) The dates of each of the last three annual certifications and the odometer reading for each of those dates.

SEC. 7. Section 17911.6 of the Education Code is amended to read:

17911.6. Local educational agencies may submit a statement describing special circumstances that are applicable to a qualified candidate schoolbus, such as the unavailability of repair or replacement parts, or any necessary chassis modifications requiring the approval of the manufacturer of the chassis, as required by regulations of the department, with its application for a replacement schoolbus. The Department of Energy may consider those special circumstances in determining the local educational agencies that are to receive replacement schoolbuses.

SEC. 8. Section 17912 of the Education Code is amended to read:

17912. The demonstration program established by this chapter shall be designed and administered by the Department of Energy, with the advice and consultation of the department and the superintendent. The Department of Energy shall insure that fuel economy and exhaust emissions are monitored as a part of the demonstration, and shall ensure that at least 35 percent of the vehicles are powered by methanol or other low-emission, clean-burning fuels, unless the Department of Energy determines, on or before March 26, 1990, that the use of these funds for clean burning fuel projects is infeasible. The Department of Energy shall, within 30 days of making that determination, submit a report to the Legislature explaining its determination with respect to the feasibility or infeasibility of the project. The field demonstration shall be in accordance with State Energy Conservation Program guidelines.

SEC. 9. Section 17912.2 of the Education Code is amended to read:

17912.2. When a local educational agency accepts a replacement schoolbus, it shall also agree to participate in the demonstration program. That participation shall include maintaining records of mileage and fuel consumption, and reporting that information to the Department of Energy in a timely manner. The Department of Energy shall establish a procedure and requirement for participation in the demonstration program. All vehicles acquired under the demonstration program, at a minimum,

1 shall meet all applicable laws and regulations, including those
2 related to their acquisition by school districts, operation, fuel
3 efficiency, air emissions, and safety.

4 SEC. 10. Section 17925 of the Education Code is amended to
5 read:

6 17925. Prior to distributing any state funds pursuant to this
7 part, the Superintendent of Public Instruction shall consult with
8 the Department of Energy to avoid duplication or overlap with
9 appropriations from the Katz Schoolbus Fund, created pursuant
10 to Section 17911.

11 SEC. 11. Section 41304 of the Education Code is amended to
12 read:

13 41304. (a) There is appropriated annually from the Driver
14 Training Penalty Assessment Fund to the General Fund in the State
15 Treasury and from the General Fund to the Department of Energy
16 a sum as necessary to establish and maintain a unit for driver
17 instruction within the State Department of Education as set forth
18 in Section 41904.

19 (b) In addition, subject to Section 41305, there shall be
20 appropriated from the Driver Training Penalty Assessment Fund
21 to the General Fund, then to the State School Fund each fiscal
22 year, the sum the Superintendent of Public Instruction certifies as
23 necessary to reimburse on a quarterly basis for each current fiscal
24 year school districts, county superintendents of schools, the
25 Department of Corrections and Rehabilitation, Division of Juvenile
26 Facilities, and the State Department of Education for the actual
27 cost of instructing pupils in the operation of motor vehicles.

28 The amount shall not exceed ninety-seven dollars (\$97) per pupil
29 instructed in the laboratory phase of driver education in accordance
30 with the rules and regulations of the State Board of Education.

31 (c) Subject to Section 41305, there shall also be appropriated
32 from the Driver Training Penalty Assessment Fund the sum the
33 Superintendent of Public Instruction shall certify as necessary to
34 reimburse on a quarterly basis for each current fiscal year school
35 districts, county superintendents of schools, the Department of
36 Corrections and Rehabilitation, Division of Juvenile Facilities,
37 and the State Department of Education for the actual cost of
38 replacing vehicles and simulators used exclusively in the laboratory
39 phase of driver education programs, but the amount shall not
40 exceed three-fourths of that part of the actual cost of instructing

1 pupils in the laboratory phase of driver education which is: (1) in
2 excess of ninety-seven dollars (\$97) per pupil instructed, and (2)
3 expended by the district, the county superintendent of schools, the
4 Department of Corrections and Rehabilitation, Division of Juvenile
5 Facilities, and the State Department of Education in replacing the
6 vehicles and simulators. Reimbursement for vehicles shall be
7 computed for only that portion of the total mileage used exclusively
8 in the laboratory phase of driver education programs.

9 (d) In addition, subject to Section 41305, there shall be provided
10 from the Petroleum Violation Escrow Account to the General
11 Fund, then to the State School Fund each fiscal year the sum the
12 Superintendent of Public Instruction certifies as necessary to
13 reimburse on a quarterly basis for each current fiscal year school
14 districts, county superintendents of schools, the Department of
15 Corrections and Rehabilitation, Division of Juvenile Facilities,
16 and the State Department of Education for the costs of fitting
17 automobile driver training vehicles with the instrumentation
18 required under Section 51854 and to reimburse on a quarterly basis
19 for each current fiscal year school districts for the costs of
20 transferring instrumentation providing instructional information
21 on fuel consumption and vehicle fuel efficiency from one
22 automobile driver training vehicle to another under Section 51854.

23 (e) In addition, subject to Section 41305, there shall be
24 appropriated from the Petroleum Violation Escrow Account to the
25 Driver Training Penalty Assessment Fund and from the Driver
26 Training Penalty Assessment Fund to the General Fund, then to
27 the Superintendent of Public Instruction each fiscal year the sum
28 the Superintendent of Public Instruction certifies as necessary to
29 reimburse on a quarterly basis for each current fiscal year the State
30 Department of Education for the costs of workshops conducted
31 by the department under Section 51854.

32 (f) For purposes of computing reimbursement, whenever a
33 school district, a county superintendent of schools, the Department
34 of Corrections and Rehabilitation, Division of Juvenile Facilities,
35 or the State Department of Education replaces a driver training
36 vehicle or simulator purchased by the district with a vehicle or
37 simulator that is a gift or loan, the purchase price of the new or
38 acquired equipment shall be deemed to be the market value of the
39 vehicle or simulator acquired through a gift or loan.

1 A simulator is ~~any~~ a device approved by the State Department
2 of Education to be used in classrooms for purposes of laboratory
3 instruction under simulated driving conditions.

4 SEC. 12. Section 32208 of the Financial Code is repealed.

5 SEC. 13. Section 32320 of the Financial Code is amended to
6 read:

7 32320. Except as provided in Sections 32325 and 32352.5, the
8 board of directors of the corporation shall consist of five members,
9 one official and four public directors.

10 SEC. 14. Section 32321 of the Financial Code is amended to
11 read:

12 32321. (a) The official member of the board shall be a member
13 of the Governor's cabinet, or his or her designee.

14 (b) The public members of the board shall be:

15 (1) One member selected and appointed by the Senate
16 Committee on Rules.

17 (2) One member selected and appointed by the Speaker of the
18 Assembly.

19 (3) Two members selected and appointed by the Governor as
20 follows:

21 (A) One member with a minimum three years' experience as
22 an owner, partner, officer, or employee of a California-based small
23 business.

24 (B) One member with a minimum three years' experience as
25 an officer or employee of a financial institution.

26 SEC. 15. Section 32322 of the Financial Code is amended to
27 read:

28 32322. (a) The term of the official member of the board shall
29 coincide with his or her official term of office.

30 (b) The public members of the board shall be appointed by the
31 Senate Committee on Rules, Speaker, and Governor in such a
32 manner that they shall hold office for overlapping terms. At the
33 time of the appointment of first directors, the first term of the
34 directors appointed by the Senate Committee on Rules and Speaker
35 shall be approximately two years. At the time of the appointment
36 of first directors, the first term of the directors appointed by the
37 Governor shall be approximately one year for one director and
38 approximately three years for two directors. Thereafter, the terms
39 of all public directors shall be three years. Directors shall be
40 eligible for reappointment for an unlimited number of terms.

1 (c) A public director's tenure shall continue until his successor
2 has been appointed and has taken his position on the board.

3 (d) In the case of public members, vacancies shall be filled by
4 appointment of the respective appointing authority for the
5 unexpired remainder of the term.

6 SEC. 16. Section 32940 of the Financial Code is amended to
7 read:

8 32940. Guidelines for approving loan applications shall be
9 developed by the board on or before May 1, 1987. In developing
10 those guidelines, the board shall incorporate the recommendations
11 adopted by the Department of Energy with respect to technical
12 criteria that are to be applied to projects receiving loans from the
13 corporation pursuant to this chapter. The corporation may contract
14 with the Department of Energy for the purpose of developing
15 technical guidelines.

16 SEC. 17. Section 32942 of the Financial Code is amended to
17 read:

18 32942. Loans shall be approved according to criteria established
19 by a credit committee, chaired by the chief financial officer of the
20 corporation or that officer's designee. The other members of the
21 committee shall be the member of the board appointed by the
22 Department of Energy and the corporate president.

23 SEC. 18. Section 9100 of the Fish and Game Code is amended
24 to read:

25 9100. The Department of Energy shall implement a revolving
26 loan fund program to assist low-income fishing fleet operators to
27 reduce their energy costs and conserve fuel by providing
28 low-interest loans to those operators.

29 SEC. 19. Section 9101 of the Fish and Game Code is amended
30 to read:

31 9101. Commencing January 1, 1994, and thereafter biennially,
32 the Department of Energy shall report to the Legislature on the
33 status of the loan program, including the number and the amounts
34 of loans made, the amount of loans repaid, and a comparison of
35 the ethnic background of the loan recipients with the ethnic
36 background of the low-income fishing fleet operators.

37 SEC. 20. Section 11553 of the Government Code is amended
38 to read:

1 11553. (a) Effective January 1, 1988, an annual salary of
2 eighty-one thousand six hundred thirty-five dollars (\$81,635) shall
3 be paid to each of the following:

- 4 (1) Chairperson of the Unemployment Insurance Appeals Board.
- 5 (2) Chairperson of the Agricultural Labor Relations Board.
- 6 (3) President of the Public Utilities Commission.
- 7 (4) Chairperson of the Fair Political Practices Commission.
- 8 (5) Chairperson of the Public Employment Relations Board.
- 9 (6) Chairperson of the Workers' Compensation Appeals Board.
- 10 (7) Administrative Director of the Division of Industrial
11 Accidents.

12 (8) Chairperson of the State Water Resources Control Board.

13 (9) Chairperson and each member of the California Integrated
14 Waste Management Board.

15 (b) The annual compensation provided by this section shall be
16 increased in any fiscal year in which a general salary increase is
17 provided for state employees. The amount of the increase provided
18 by this section shall be comparable to, but shall not exceed, the
19 percentage of the general salary increases provided for state
20 employees during that fiscal year.

21 (c) Notwithstanding subdivision (b), any salary increase is
22 subject to Section 11565.5.

23 SEC. 21. Section 12802.5 of the Government Code is amended
24 to read:

25 12802.5. The Governor may, with respect to the Natural
26 Resources Agency, appoint a Deputy Secretary for Energy Matters
27 who may serve as Secretary of the Natural Resources Agency
28 designee on the California Energy Commission and appoint an
29 Assistant Secretary for Coastal Matters who may serve as Secretary
30 of the Natural Resources Agency designee on the California
31 Coastal Commission.

32 SEC. 22. Section 12805 of the Government Code is amended
33 to read:

34 12805. (a) The Resources Agency is hereby renamed the
35 Natural Resources Agency. The Natural Resources Agency consists
36 of the departments of Energy, Forestry and Fire Protection,
37 Conservation, Fish and Game, Boating and Waterways, Parks and
38 Recreation, and Water Resources; the State Lands Commission;
39 the Colorado River Board; the San Francisco Bay Conservation
40 and Development Commission; the Central Valley Flood Protection

1 Board; the Wildlife Conservation Board; the Delta Protection
2 Commission; the Native American Heritage Commission; the
3 California Conservation Corps; the California Coastal Commission;
4 the State Coastal Conservancy; the California Tahoe Conservancy;
5 the Santa Monica Mountains Conservancy; the Coachella Valley
6 Mountains Conservancy; the San Joaquin River Conservancy; the
7 San Gabriel and Lower Los Angeles Rivers and Mountains
8 Conservancy; the Baldwin Hills Conservancy; the San Diego River
9 Conservancy; and the Sierra Nevada Conservancy.

10 (b) No existing supplies, forms, insignias, signs, or logos shall
11 be destroyed or changed as a result of changing the name of the
12 Resources Agency to the Natural Resources Agency, and those
13 materials shall continue to be used until exhausted or unserviceable.

14 SEC. 23. Section 14450 of the Government Code is amended
15 to read:

16 14450. The department, in preparing its research and
17 development program, shall consult with other parts of the
18 transportation industry, including the private and public sectors,
19 in order to obtain maximum input designed to develop a balanced
20 multimodal research and development program. The department
21 shall also consult with affected state agencies, including the
22 Department of Motor Vehicles, the State Air Resources Board,
23 the Department of Energy, and the Department of the California
24 Highway Patrol.

25 SEC. 24. Section 14684 of the Government Code is amended
26 to read:

27 14684. (a) The department, in consultation with the
28 Department of Energy, shall ensure that solar energy equipment
29 is installed, no later than January 1, 2007, on all state buildings
30 and state parking facilities, where feasible. The department shall
31 establish a schedule designating when solar energy equipment will
32 be installed on each building and facility, with priority given to
33 buildings and facilities where installation is most feasible, both
34 for state building and facility use and consumption and local
35 publicly owned electric utility use, where feasible.

36 (b) Solar energy equipment shall be installed where feasible as
37 part of the construction of all state buildings and state parking
38 facilities that commences after December 31, 2002.

1 (c) For purposes of this section, it is feasible to install solar
2 energy equipment if adequate space on a building is available, and
3 if the solar energy equipment is cost-effective.

4 (d) This section does not exempt the state from any applicable
5 fee or requirement imposed by the Public Utilities Commission.

6 (e) The department may adopt regulations for the purposes of
7 this section as emergency regulations in accordance with Chapter
8 3.5 (commencing with Section 11340) of Part 1. For purposes of
9 Chapter 3.5 (commencing with Section 11340) of Part 1, including,
10 but not limited to, Section 11349.6, the adoption of the regulations
11 shall be considered by the Office of Administrative Law to be
12 necessary for the immediate preservation of the public peace,
13 health, safety, and general welfare. Notwithstanding the 120-day
14 limit specified in subdivision (e) of Section 11346.1, the regulations
15 shall be repealed 180 days after their effective date, unless the
16 department complies with Chapter 3.5 (commencing with Section
17 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

18 (f) For purposes of this section, the following terms have the
19 following meanings:

20 (1) “Cost-effective” means that the present value of the savings
21 generated over the life of the solar energy system, including
22 consideration of the value of the energy produced during peak and
23 off-peak demand periods and the value of a reliable energy supply
24 not subject to price volatility, shall exceed the present value cost
25 of the solar energy equipment by not less than 10 percent. The
26 present value cost of the solar energy equipment does not include
27 the cost of unrelated building components. The department, in
28 making the present value assessment, shall obtain interest rates,
29 discount rates, and consumer price index figures from the
30 Treasurer, and shall take into consideration air emission reduction
31 benefits.

32 (2) “Local publicly owned electric utility” means a local publicly
33 owned electric utility as defined in Section 9604 of the Public
34 Utilities Code.

35 (3) “Solar energy equipment” means equipment whose primary
36 purpose is to provide for the collection, conversion, storage, or
37 control of solar energy for electricity generation.

38 SEC. 25. Section 14684.1 of the Government Code is amended
39 to read:

1 14684.1. (a) The department, in consultation with the
2 Department of Energy, shall ensure that solar energy equipment
3 is installed, no later than January 1, 2009, on all state buildings,
4 state parking facilities, and state-owned swimming pools that are
5 heated with fossil fuels or electricity, where feasible. The
6 department shall establish a schedule designating when solar energy
7 equipment will be installed on each building and facility, with
8 priority given to buildings and facilities where installation is most
9 feasible.

10 (b) Solar energy equipment shall be installed, where feasible,
11 as part of the construction of all state buildings and state parking
12 facilities for which construction commences on or after January
13 1, 2008.

14 (c) For purposes of this section, it is feasible to install solar
15 energy equipment if adequate space on or adjacent to a building
16 is available, if the solar energy equipment is cost-effective, and if
17 funding is available from the state or another source.

18 (d) Any solar energy equipment installed pursuant to this section
19 shall meet applicable standards and requirements imposed by state
20 and local permitting authorities, including, but not limited to, all
21 of the following:

22 (1) Certification by the Solar Rating and Certification
23 Corporation, which is a nonprofit third party supported by the
24 United States Department of Energy, or any other nationally
25 recognized certification agency.

26 (2) All applicable safety and performance standards established
27 by the National Electrical Code, the Institute of Electrical and
28 Electronics Engineers, and accredited testing laboratories, such as
29 the Underwriters Laboratories.

30 (3) Where applicable, the regulations adopted by the Public
31 Utilities Commission regarding safety and reliability.

32 (e) This section does not exempt the state from the payment of
33 any applicable fee or requirement imposed by the Public Utilities
34 Commission.

35 (f) The department may adopt regulations for the purposes of
36 this section as emergency regulations in accordance with Chapter
37 3.5 (commencing with Section 11340) of Part 1. For purposes of
38 that chapter, including, but not limited to, Section 11349.6, the
39 adoption of the regulations shall be considered by the Office of
40 Administrative Law to be necessary for the immediate preservation

1 of the public peace, health, safety, and general welfare.
2 Notwithstanding the 120-day limit specified in subdivision (e) of
3 Section 11346.1, the regulations shall be repealed 180 days after
4 their effective date, unless the department complies with Chapter
5 3.5 (commencing with Section 11340) of Part 1 as provided in
6 subdivision (e) of Section 11346.1.

7 (g) Any solar energy equipment installed pursuant to this section
8 shall be subject to the provisions of the California Solar Rights
9 Act of 1978 (Chapter 1154 of the Statutes of 1978), as amended.

10 (h) For purposes of this section, the following terms have the
11 following meanings:

12 (1) "Cost-effective" means that the present value of the savings
13 generated over the life of the solar energy system, including
14 consideration of the value of the energy produced during peak and
15 off-peak demand periods and the value of a reliable energy supply
16 not subject to price volatility, shall exceed the present value cost
17 of the solar energy equipment by not less than 10 percent. The
18 present value cost of the solar energy equipment does not include
19 the cost of unrelated building components. The department, in
20 making the present value assessment, shall obtain interest rates,
21 discount rates, and consumer price index figures from the
22 Treasurer, and shall take into consideration air emission reduction
23 benefits and the value of stable energy costs.

24 (2) "Local publicly owned electric utility" means a local publicly
25 owned electric utility as defined in subdivision (d) of Section 9604
26 of the Public Utilities Code.

27 (3) "Solar energy equipment" means equipment whose primary
28 purpose is to provide for the collection, conversion, storage, or
29 control of solar energy for the purpose of heat production,
30 electricity production, or simultaneous heat and electricity
31 production.

32 SEC. 26. Section 15814.22 of the Government Code is amended
33 to read:

34 15814.22. The Department of General Services, in consultation
35 with the Department of Energy and other state agencies and
36 departments, shall develop a multiyear plan, to be updated
37 biennially, with the goal of exploiting all practicable and
38 cost-effective energy efficiency measures in state facilities. The
39 department shall coordinate plan implementation efforts and make

1 recommendations to the Governor and the Legislature to achieve
2 energy efficiency goals for state facilities.

3 SEC. 27. Section 15814.23 of the Government Code is amended
4 to read:

5 15814.23. The Department of General Services or each state
6 agency having jurisdiction shall ensure that all new state buildings
7 are designed and constructed to meet at least the minimum energy
8 efficiencies specified in standards adopted by the Department of
9 Energy pursuant to Section 25402 of the Public Resources Code.
10 In the design and construction of new state buildings, the
11 department or other responsible state agency shall also consider
12 additional state-of-the-art energy efficiency design measures and
13 equipment, beyond those required by the standards, that are
14 cost-effective and feasible.

15 SEC. 28. Section 15814.25 of the Government Code, as
16 amended by Section 48 of Chapter 193 of the Statutes of 2004, is
17 amended and renumbered to read:

18 15814.24.1. Energy conservation measures eligible for
19 financing by kindergarten through grade 12 schools shall be limited
20 to those measures recommended pursuant to an energy audit
21 provided by the Department of Energy under its existing authority.

22 SEC. 29. Section 15814.30 of the Government Code is amended
23 to read:

24 15814.30. (a) All new public buildings for which construction
25 begins after January 1, 1993, shall be models of energy efficiency
26 and shall be designed, constructed, and equipped with all energy
27 efficiency measures, materials, and devices that are feasible and
28 cost-effective over the life of the building or the life of the energy
29 efficiency measure, whichever is less.

30 (b) In determining which energy efficiency measures, materials,
31 and devices are feasible and cost-effective over the life of the
32 building, the State Architect and the Department of General
33 Services shall consult with the Department of Energy.

34 (c) For purposes of this section, “cost-effective” means that
35 savings generated over the life of the building or the life of the
36 energy efficiency measure, whichever is less, shall exceed the cost
37 of purchasing and installing the energy efficiency measures,
38 materials, or devices by not less than 10 percent.

39 SEC. 30. Section 15814.34 of the Government Code is amended
40 to read:

1 15814.34. (a) The Legislature finds and declares all of the
2 following:

3 (1) The state purchases a number of commodities, including,
4 but not limited to, lighting fixtures, heating, ventilation and
5 air-conditioning units, and copiers, that cumulatively account for
6 a significant portion of the energy consumed by state operations.

7 (2) The state can realize significant energy savings and reduced
8 energy costs by purchasing brands or models of commonly used
9 commodities with low life cycle costs.

10 (3) Commodities necessary for state operations may be
11 purchased directly by the state department or agency using the
12 commodity, or may be purchased by the Department of General
13 Services on behalf of other state departments or agencies.

14 (4) In order to increase energy efficiency and reduce costs to
15 the taxpayers of the state, the state should make every reasonable
16 effort to identify and purchase those commodities that have the
17 lowest life cycle cost and meet the operational requirements of the
18 state.

19 (b) The Department of General Services shall, on an ongoing
20 basis, do all of the following:

21 (1) Identify commodities purchased by the department that,
22 individually or on a statewide basis, consume a significant amount
23 of energy.

24 (2) For each commodity identified pursuant to paragraph (1),
25 determine the life cycle cost of the following:

26 (A) The brand or model of the commodity purchased by the
27 department.

28 (B) The brand or model of the commodity that has the lowest
29 life cycle cost, provided it is available for purchase by the state
30 and meets all operational specifications of the state.

31 (3) Consult with the Department of Energy in the development
32 and revision of one or more methods of determining the life cycle
33 costs of commodities.

34 (c) In order to assist other agencies and departments in
35 identifying commodities with the lowest life cycle costs, the
36 Department of General Services shall distribute the following to
37 all state agencies and departments:

38 (1) A list of those commodities with the lowest life cycle costs,
39 as determined pursuant to paragraph (2) of subdivision (b).

1 (2) The method or methods used by the Department of General
2 Services to determine the life cycle costs of commodities.

3 (d) The method or methods used by the Department of General
4 Services to calculate the life cycle costs of commodities shall be
5 designed to be easily understood and used by purchasing agents
6 and other personnel in making purchasing decisions.

7 (e) Notwithstanding any other provision of law, all state agencies
8 and departments shall purchase those commodities identified
9 pursuant to subdivision (b) that have the lowest life cycle costs
10 and that meet the applicable specifications, and shall make every
11 reasonable effort to identify and purchase other commodities with
12 the lowest life cycle costs.

13 (f) “Life cycle cost” for the purposes of this section, means the
14 total cost of purchasing, installing, maintaining, and operating a
15 device or system during its reasonably expected life. It includes,
16 but is not necessarily limited to, capital costs, labor costs, energy
17 costs, and operating and maintenance costs.

18 SEC. 31. Section 66645 of the Government Code is amended
19 to read:

20 66645. (a) In addition to the provisions of Sections 25302,
21 25500, 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526
22 of the Public Resources Code, the provisions of this section shall
23 apply to the commission and the Department of Energy with respect
24 to matters within the statutory responsibility of the latter.

25 (b) After one or more public hearings, and prior to January 1,
26 1979, the commission shall designate those specific locations
27 within the Suisun Marsh, as defined in Section 29101 of the Public
28 Resources Code, or the area of jurisdiction of the commission,
29 where the location of a facility, as defined in Section 25110 of the
30 Public Resources Code, would be inconsistent with this title or
31 Division 19 (commencing with Section 29000) of the Public
32 Resources Code. The following locations, however, shall not be
33 so designated: (1) any property of a utility that is used for such a
34 facility or will be used for the reasonable expansion thereof; (2)
35 any site for which a notice of intention to file an application for
36 certification has been filed pursuant to Section 25502 of the Public
37 Resources Code prior to January 1, 1978, and is subsequently
38 approved pursuant to Section 22516 of the Public Resources Code;
39 and (3) the area east of Collinsville Road that is designated for
40 water-related industrial use on the Suisun Marsh Protection Plan

1 Map. Each designation made pursuant to this section shall include
2 a description of the boundaries of those locations, the provisions
3 of this title or Division 19 (commencing with Section 29000) of
4 the Public Resources Code with which they would be inconsistent,
5 and detailed findings concerning the significant adverse impacts
6 that would result from development of a facility in the designated
7 area. The commission shall consider the conclusions, if any,
8 reached by the Department of Energy in its most recently
9 promulgated comprehensive report issued pursuant to former
10 Section 25309 of the Public Resources Code. The commission
11 also shall request the assistance of the Department of Energy in
12 carrying out the requirements of this section. The commission shall
13 transmit a copy of its report prepared pursuant to this subdivision
14 to the Department of Energy.

15 (c) The commission shall revise and update the designations
16 specified in subdivision (b) not less than once every five years.
17 Subdivision (b) shall not apply to any sites and related facilities
18 specified in any notice of intention to file an application for
19 certification filed pursuant to Section 25502 of the Public
20 Resources Code prior to designation of additional locations made
21 by the commission pursuant to this subdivision.

22 (d) Whenever the Secretary of Energy exercises its siting
23 authority and undertakes proceedings pursuant to Chapter 6
24 (commencing with Section 25500) of Division 15 of the Public
25 Resources Code with respect to any powerplant or transmission
26 line to be located, in whole or in part, within the Suisun Marsh or
27 the area of jurisdiction of the commission, the commission shall
28 participate in those proceedings and shall receive from the
29 Department of Energy any notice of intention to file an application
30 for certification of a site and related facilities within the Suisun
31 Marsh or the area of jurisdiction of the commission. The
32 commission shall analyze each notice of intention and, prior to
33 commencement of the hearings conducted pursuant to Section
34 25513 of the Public Resources Code, shall forward to the
35 Department of Energy a written report on the suitability of the
36 proposed site and related facilities specified in that notice. The
37 commission's report shall contain a consideration of, and findings
38 regarding, the following:

39 (1) If it is to be located within the Suisun Marsh, the consistency
40 of the proposed site and related facilities, with this title and

1 Division 19 (commencing with Section 29000) of the Public
2 Resources Code, the policies of the Suisun Marsh Protection Plan,
3 as defined in Section 29113 of the Public Resources Code, and the
4 certified local protection program, as defined in Section 29111 of
5 the Public Resources Code, if any.

6 (2) If it is to be located within the area of jurisdiction of the
7 commission, the consistency of the proposed site and related
8 facilities with this title and the San Francisco Bay Plan.

9 (3) The degree to which the proposed site and related facilities
10 could reasonably be modified so as to be consistent with this title,
11 Division 19 (commencing with Section 29000) of the Public
12 Resources Code, the Suisun Marsh Protection Plan, or the San
13 Francisco Bay Plan.

14 (4) Any other matters as the commission deems appropriate and
15 necessary to carry out Division 19 (commencing with Section
16 29000) of the Public Resources Code.

17 SEC. 32. Section 66646 of the Government Code is amended
18 to read:

19 66646. Notwithstanding any other provision of this title, except
20 subdivisions (b) and (c) of Section 66645, and notwithstanding
21 any provision of Division 19 (commencing with Section 29000)
22 of the Public Resources Code, new or expanded electric generating
23 plants may be constructed within the Suisun Marsh, as defined in
24 Section 29101 of the Public Resources Code, or the area of
25 jurisdiction of the commission, if the proposed site has been
26 determined, pursuant to Section 25516.1 of the Public Resources
27 Code, by the Department of Energy to have greater relative merit
28 than available alternative sites and related facilities for an
29 applicant's service area that have been determined to be acceptable
30 pursuant to Section 25516 of the Public Resources Code.

31 SEC. 33. Section 3805.5 of the Public Resources Code is
32 repealed.

33 SEC. 34. Section 3806.5 is added to the Public Resources Code,
34 to read:

35 3806.5. "Department" means the Department of Energy.

36 SEC. 35. Section 3808 of the Public Resources Code is
37 amended to read:

38 3808. (a) "Geothermal resources" means geothermal resources
39 designated by the United States Geological Survey or the
40 Department of Conservation, or by both.

1 (b) The Department of Conservation shall periodically review,
2 and revise as necessary, its designation of geothermal resource
3 areas and shall transmit any changes to the department.

4 SEC. 36. Section 3810 of the Public Resources Code is
5 amended to read:

6 3810. (a) (1) “Award repayment or program reimbursement
7 agreement,” including a “royalty agreement,” as specified in
8 subdivision (b), means a method used at the discretion of the
9 department to determine and establish the terms of replenishment
10 of program funds, including, at a minimum, repayment of the
11 award to provide for further awards under this chapter. The award
12 repayment or program reimbursement agreement may provide that
13 payments be made to the department when the award recipient,
14 affiliate of the award recipient, or third party receives, through any
15 kind of transaction, an economic benefit from the project,
16 invention, or product developed, made possible, or derived, in
17 whole or in part, as a result of the award.

18 (2) An award repayment or program reimbursement agreement
19 shall specify the method to be used by the department to determine
20 and establish the terms of repayment and reimbursement of the
21 award.

22 (3) The department may require due diligence of the award
23 recipient and may take any action that is necessary to bring the
24 project, invention, or product to market.

25 (4) Subject to the confidentiality requirements of Section 2505
26 of Title 20 of the California Code of Regulations, the department
27 may require access to financial, sales, and production information,
28 and to other agreements involving transactions of the award
29 recipient, affiliates of the award recipient, and third parties, as
30 necessary, to ascertain the royalties or other payments due the
31 department.

32 (b) A “royalty agreement” is an award repayment or program
33 reimbursement agreement and is subject to all of the following
34 conditions:

35 (1) The royalty rate shall be determined by the department and
36 shall not exceed 5 percent of the gross revenue derived from the
37 project, invention, or product.

38 (2) The royalty agreement shall specify the method to be used
39 by the department to determine and establish the terms of payment
40 of the royalty rate.

1 (3) The department shall determine the duration of the royalty
2 agreement and may negotiate a collection schedule.

3 (4) The department, for separate consideration, may negotiate
4 and receive payments to provide for an early termination of the
5 royalty agreement.

6 (c) (1) The department may require that the intellectual property
7 developed, made possible, or derived, in whole or in part, as a
8 result of the award repayment or program reimbursement
9 agreement, revert to the state upon a default in the terms of the
10 award repayment or program reimbursement agreement or royalty
11 agreement.

12 (2) The department may require advance notice of any
13 transaction involving intellectual property rights.

14 SEC. 37. Section 3822 of the Public Resources Code is
15 amended to read:

16 3822. (a) Thirty percent of the revenues received and deposited
17 in the Geothermal Resources Development Account shall be
18 available for expenditure by the department as grants or loans to
19 local jurisdictions or private entities without regard to fiscal years.
20 These revenues shall be held by the department in the Local
21 Government Geothermal Resources Revolving Subaccount, which
22 is hereby created in the Geothermal Resources Development
23 Account. Loan repayments shall be deposited in the subaccount
24 and shall be used for making additional grants and loans pursuant
25 to Section 3823.

26 (b) No local jurisdiction shall be eligible to apply for a grant or
27 loan pursuant to this section unless its governing body approves
28 the application by resolution.

29 (c) Each recipient of a grant or loan made pursuant to this section
30 shall establish, for the deposit of the revenues, an account or fund
31 that is separate from the other accounts and funds of the recipient,
32 and may expend the revenues only for the purposes specified in
33 this chapter.

34 (d) The department shall make grants and loans pursuant to this
35 section irrespective of whether a local jurisdiction is a county of
36 origin.

37 (e) Any of the revenues that are not disbursed as grants or loans
38 pursuant to this section during the fiscal year received shall be
39 retained in the subaccount and may be disbursed as grants or loans
40 pursuant to this section in succeeding fiscal years.

1 (f) (1) Any loan made under this section shall:

2 (A) Not exceed 80 percent of the local jurisdiction's costs.

3 (B) Be repaid together with interest within 20 years from receipt
4 of the loan funds.

5 (2) Notwithstanding any other provision of law, the department
6 shall, unless it determines that the purposes of this chapter would
7 be better served by establishing an alternative interest rate schedule,
8 periodically set interest rates on the loans based on surveys of
9 existing financial markets and at rates not lower than the Pooled
10 Money Investment Account.

11 (g) Any loan or grant made to a private entity under this section
12 shall (1) be matched with at least an equal investment by the
13 recipient, (2) provide tangible benefits, as determined by the
14 department, to a local jurisdiction, and (3) be approved by the city,
15 county, or Indian reservation within which the project is to be
16 located.

17 (h) The department may require an award repayment or program
18 reimbursement agreement of any recipient of a grant or loan made
19 pursuant to this section.

20 SEC. 38. Section 3822.1 of the Public Resources Code is
21 amended to read:

22 3822.1. Notwithstanding any other provision of law,
23 commencing with the 1984–85 fiscal year and in each fiscal year
24 thereafter, any revenues not granted pursuant to Section 3822
25 remaining in the Geothermal Resources Development Account
26 and any revenues expected to be received and disbursed during
27 the 1984–85 fiscal year and in each fiscal year thereafter shall be
28 made a part of the Governor's Budget. Projects approved by the
29 department under this chapter shall be submitted for review and
30 comment to the Department of Finance, the Legislative Analyst,
31 and the Joint Legislative Budget Committee when the Legislature
32 is in session. After a 30-day period, the department shall execute
33 the funding agreements. The department shall submit to the
34 Legislature by April 1 of each year, a list of projects, in priority
35 order, selected and approved during the previous year.

36 SEC. 39. Section 3822.2 of the Public Resources Code is
37 amended to read:

38 3822.2. (a) Notwithstanding any other provision of law, the
39 department may expend funds, from that portion of the Geothermal
40 Resources Development Account used by the department for grants

1 and loans, to provide direct technical assistance to local
2 jurisdictions that are eligible for grants and loans pursuant to
3 Section 3822.

4 (b) The total of all amounts expended pursuant to this section
5 shall not exceed 5 percent of all funds available under Section
6 3822 or one hundred thousand dollars (\$100,000), whichever
7 amount is less.

8 (c) In making expenditures under this section, the department
9 shall consider, but not be limited to a consideration of, all of the
10 following:

11 (1) The availability of energy resource and technology
12 opportunities.

13 (2) The project definition and likelihood of success.

14 (3) Local needs and potential project benefits.

15 SEC. 40. Section 4799.16 of the Public Resources Code is
16 amended to read:

17 4799.16. The department shall coordinate its activities and
18 cooperate with the Department of Energy in the development of
19 surveys, studies, and research concerning the utilization of wood
20 waste and forest growth for energy. The department shall also
21 coordinate its activities with other public and private agencies to
22 insure that the activities of the department and those other agencies
23 are not duplicative and the maximum benefit occurs from actions
24 taken by the department to carry out its responsibilities pursuant
25 to this chapter.

26 SEC. 41. Section 6815.2 of the Public Resources Code is
27 amended to read:

28 6815.2. (a) Notwithstanding Section 6815.1, the commission
29 may take any oil, gas, or other hydrocarbons taken in kind by it,
30 pursuant to any lease or agreement, and exchange it, by competitive
31 bidding, for refined products that shall be allocated to state agencies
32 and to other public agencies, if the Department of Energy, after a
33 public hearing, finds, in its judgment, that the retention and
34 allocation is necessary to alleviate fuel shortage conditions or will
35 effect a substantial cost saving to the state.

36 (b) The commission may make and enter into contracts or
37 agreements for exchange of oil, gas, and other hydrocarbons taken
38 in kind for finished products required for use by state and other
39 public agencies. These contracts or agreements shall be entered

1 into by competitive bids. The commission may reject all bids if it
2 determines that they are not in the public interest.

3 (c) The commission shall charge the state or other public
4 agencies allocated refined products the current market price of
5 these products including all applicable taxes. This price shall not
6 be less than the value of the oil, gas, or other hydrocarbons that
7 would have been received by the state if not taken in kind. The
8 revenue shall be subject to the terms and conditions enumerated
9 in Section 6217. The taxes generated by these sales shall be
10 distributed according to applicable provisions of the Revenue and
11 Taxation Code.

12 (d) The refined products obtained from exchange contracts or
13 agreements entered into pursuant to this section shall be allocated
14 to state agencies and to other public agencies in accordance with
15 the regulations, which shall be adopted, after a public hearing, by
16 the Department of Energy.

17 (e) (1) Notwithstanding Section 6815.1, if the commission
18 determines that it is in the best interests of the state, it may allow
19 another state or public agency to take in kind oil, gas, or other
20 hydrocarbons acquired by the commission.

21 (2) The commission shall charge the state or other public
22 agencies allocated in kind oil, gas, or other hydrocarbons the
23 current market price of these products, including all applicable
24 taxes. This price shall not be less than the value of the oil, gas, or
25 other hydrocarbons that would have been received by the state if
26 not taken in kind. The commission may also charge for any
27 transportation, treatment, or other costs associated with taking the
28 in kind royalty. The revenue shall be subject to the terms and
29 conditions enumerated in Section 6217. The taxes generated by
30 these sales shall be distributed according to applicable provisions
31 of the Revenue and Taxation Code.

32 SEC. 42. Section 14584 of the Public Resources Code is
33 amended to read:

34 14584. (a) Operators of reverse vending machines or
35 processors may apply to the California Pollution Control Financing
36 Authority for financing pursuant to Section 44526 of the Health
37 and Safety Code, as a means of obtaining capital for establishment
38 of a convenience network. For purposes of Section 44508 of the
39 Health and Safety Code, “project” includes the establishing of a
40 recycling location pursuant to the division.

(b) Corporations, companies, or individuals may apply for loan and grant funds from the Energy Technologies Research, Development, and Demonstration Account specified in Section 25683 by applying to the Department of Energy for the purpose of demonstrating equipment for enhancing recycling opportunities.

SEC. 43. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.

(b) This division does not apply to any of the following activities:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions necessary to prevent or mitigate an emergency.

(5) Projects that a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the Department of Energy, by the Public Utilities

1 Commission, or by the city or county in which the powerplant and
2 related facility would be located if the environmental impact report,
3 negative declaration, or document includes the environmental
4 impact, if any, of the action described in this paragraph.

5 (7) Activities or approvals necessary to the bidding for, hosting
6 or staging of, and funding or carrying out of, an Olympic games
7 under the authority of the International Olympic Committee, except
8 for the construction of facilities necessary for the Olympic games.

9 (8) The establishment, modification, structuring, restructuring,
10 or approval of rates, tolls, fares, or other charges by public agencies
11 that the public agency finds are for the purpose of (A) meeting
12 operating expenses, including employee wage rates and fringe
13 benefits, (B) purchasing or leasing supplies, equipment, or
14 materials, (C) meeting financial reserve needs and requirements,
15 (D) obtaining funds for capital projects necessary to maintain
16 service within existing service areas, or (E) obtaining funds
17 necessary to maintain those intracity transfers as are authorized
18 by city charter. The public agency shall incorporate written findings
19 in the record of any proceeding in which an exemption under this
20 paragraph is claimed setting forth with specificity the basis for the
21 claim of exemption.

22 (9) All classes of projects designated pursuant to Section 21084.

23 (10) A project for the institution or increase of passenger or
24 commuter services on rail or highway rights-of-way already in
25 use, including modernization of existing stations and parking
26 facilities.

27 (11) A project for the institution or increase of passenger or
28 commuter service on high-occupancy vehicle lanes already in use,
29 including the modernization of existing stations and parking
30 facilities.

31 (12) Facility extensions not to exceed four miles in length that
32 are required for the transfer of passengers from or to exclusive
33 public mass transit guideway or busway public transit services.

34 (13) A project for the development of a regional transportation
35 improvement program, the state transportation improvement
36 program, or a congestion management program prepared pursuant
37 to Section 65089 of the Government Code.

38 (14) Any project or portion thereof located in another state that
39 will be subject to environmental impact review pursuant to the
40 National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321

et seq.) or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in this state are subject to this division.

(15) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project that was not analyzed as a significant effect on the environment in the plan or other written documentation required by Section 21080.5 is subject to this division.

(c) If a lead agency determines that a proposed project, not otherwise exempt from this division, would not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (B) there is no substantial evidence, in light of the whole record before the lead agency, that the project, as revised, may have a significant effect on the environment.

(d) If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) (1) For the purposes of this section and this division, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.

(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

1 (f) As a result of the public review process for a mitigated
2 negative declaration, including administrative decisions and public
3 hearings, the lead agency may conclude that certain mitigation
4 measures identified pursuant to paragraph (2) of subdivision (c)
5 are infeasible or otherwise undesirable. In those circumstances,
6 the lead agency, prior to approving the project, may delete those
7 mitigation measures and substitute for them other mitigation
8 measures that the lead agency finds, after holding a public hearing
9 on the matter, are equivalent or more effective in mitigating
10 significant effects on the environment to a less than significant
11 level and that do not cause any potentially significant effect on the
12 environment. If those new mitigation measures are made conditions
13 of project approval or are otherwise made part of the project
14 approval, the deletion of the former measures and the substitution
15 of the new mitigation measures shall not constitute an action or
16 circumstance requiring recirculation of the mitigated negative
17 declaration.

18 (g) This section does not preclude a project applicant or any
19 other person from challenging, in an administrative or judicial
20 proceeding, the legality of a condition of project approval imposed
21 by the lead agency. If, however, any condition of project approval
22 set aside by either an administrative body or court was necessary
23 to avoid or lessen the likelihood of the occurrence of a significant
24 effect on the environment, the lead agency's approval of the
25 negative declaration and project shall be invalid and a new
26 environmental review process shall be conducted before the project
27 can be reapproved, unless the lead agency substitutes a new
28 condition that the lead agency finds, after holding a public hearing
29 on the matter, is equivalent to, or more effective in, lessening or
30 avoiding significant effects on the environment and that does not
31 cause any potentially significant effect on the environment.

32 SEC. 44. Section 25104 of the Public Resources Code is
33 amended to read:

34 25104. "Commission" means the California Energy
35 Commission.

36 SEC. 45. Section 25104.1 is added to the Public Resources
37 Code, to read:

38 25104.1. (a) "Department" means the Department of Energy.

39 (b) "Office" means the Office of Energy Market Oversight.

SEC. 46. Section 25104.2 is added to the Public Resources Code, to read:

25104.2. “Secretary” means the Secretary of Energy.

SEC. 47. Section 25106 of the Public Resources Code is amended to read:

25106. “Adviser” means the public adviser employed by the department pursuant to Section 25217.1.

SEC. 48. Section 25107 of the Public Resources Code is repealed.

SEC. 49. Section 25107 is added to the Public Resources Code, to read:

25107. “Electric transmission line” means any of the following and any appurtenant facilities, including, but not limited to, substations, switching stations, and voltage regulating facilities:

(a) An electric power line carrying electric power from a powerplant located within the state to a point of junction with any interconnected transmission system. “Electric transmission line” does not include any replacement on the existing site of existing electric power lines with electric power lines equivalent to the existing electric power lines or the placement of new or additional conductors, insulators, or accessories related to the existing electric power lines on supporting structures in existence on the effective date of this division or certified pursuant to this division.

(b) An electric power line that is proposed to be built by a merchant developer and that is either of the following:

(1) Designed for immediate or eventual operation at a maximum rated voltage of 200 kilovolts or greater.

(2) Has a maximum rated voltage of 100 kilovolts or greater and certification is sought following inclusion of that facility as an element of the strategic plan adopted under Section 25324.

(c) An electric power line that meets the criteria in subdivision (b) and that is proposed to be built by a municipal utility district that chooses to submit an application for certification to the commission for the electric power line.

SEC. 50. Section 25110 of the Public Resources Code is amended to read:

25110. “Facility” means any electric transmission line or powerplant, or both electric transmission line and powerplant, regulated according to this division.

SEC. 51. Section 25112 of the Public Resources Code is amended to read:

25112. “Member” or “member of the commission” means a member of the California Energy Commission designated or appointed pursuant to Section 25203.

SEC. 52. Section 25113 of the Public Resources Code is repealed.

SEC. 53. Section 25120 of the Public Resources Code is repealed.

SEC. 54. Section 25120 is added to the Public Resources Code, to read:

25120. “Powerplant” means a stationary or floating electrical generating facility using any source of energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant to the generating facility. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this division.

SEC. 55. Section 25123 of the Public Resources Code is amended to read:

25123. “Modification of an existing facility” means any alteration, replacement, or improvement of equipment that results in a 50-megawatt or more increase in the electric generating capacity of an existing powerplant or an increase of 25 percent in the peak operating voltage or peak kilowatt capacity of an existing electric transmission line.

SEC. 56. The heading of Chapter 3 (commencing with Section 25200) of Division 15 of the Public Resources Code is amended to read:

CHAPTER 3. DEPARTMENT OF ENERGY

SEC. 57. Section 25200 of the Public Resources Code is repealed.

SEC. 58. Section 25200 is added to the Public Resources Code, to read:

25200. (a) The Department of Energy is hereby created in state government to be headed by the Secretary of Energy who

1 shall be appointed by, and hold office at the pleasure of, the
2 Governor, subject to Senate confirmation.

3 (b) The Secretary of Energy shall serve as the principal advisor
4 to the Governor on, and shall assist the Governor in establishing,
5 major policy and program matters on electric power and other
6 sources of energy as related to renewable energy, energy
7 conservation, environmental protection, and other goals and
8 policies established by this division.

9 (c) The Secretary of Energy shall have the power of a head of
10 a department pursuant to Chapter 2 (commencing with Section
11 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

12 (d) The Governor may appoint, and the Secretary of Energy
13 shall fix, the salary of an Assistant Secretary of Energy who shall
14 serve at the pleasure of the secretary.

15 (e) Consistent with the powers set forth in Chapter 2
16 (commencing with Section 12850) of Part 2.5 of Division 3 of
17 Title 2 of the Government Code, the Secretary of Energy shall
18 organize the department, with the approval of the Governor, in the
19 manner he or she deems necessary to properly conduct the
20 operations of the department. The secretary may employ legal
21 counsel who shall advise the department in connection with legal
22 matters and litigation before any boards, agencies, or courts of the
23 state or federal government.

24 (f) The department shall be responsible for the planning,
25 development, and implementation of all major aspects of the state
26 energy policy, including electricity.

27 (g) On or before April 1, 2010, the Secretary of Energy shall
28 submit to the Legislature a proposal to recodify statutory provisions
29 related to the department, and any other appropriate provisions,
30 into an Energy Code.

31 SEC. 59. Section 25201 of the Public Resources Code is
32 repealed.

33 SEC. 60. Section 25201 is added to the Public Resources Code,
34 to read:

35 25201. (a) The Department of Energy hereby succeeds to, and
36 is vested with, all the powers, duties, responsibilities, obligations,
37 liabilities, and jurisdiction of the following agencies, which shall
38 no longer exist, and shall be known as predecessor entities:

39 (1) The State Energy Resources Conservation and Development
40 Commission, some of whose former functions shall be

1 administrated by the California Energy Commission within the
2 department as provided by law or directly by the Secretary of
3 Energy.

4 (2) California Consumer Power and Conservation Financing
5 Authority.

6 (3) Electricity Oversight Board.

7 (b) Any reference in any law or regulation to any of the
8 predecessor entities listed in subdivision (a) shall be deemed to
9 refer to the Department of Energy or the California Energy
10 Commission, as appropriate, unless the context requires otherwise.

11 SEC. 61. Section 25202 of the Public Resources Code is
12 repealed.

13 SEC. 62. Section 25202 is added to the Public Resources Code,
14 to read:

15 25202. In addition to the powers, duties, responsibilities, and
16 jurisdiction specified in Section 25201, the Department of Energy
17 hereby succeeds to, and is vested with, all the powers, duties,
18 responsibilities, obligations, liabilities, and jurisdiction of all of
19 the following:

20 (a) The California Energy Extension Service of the Office of
21 Planning and Research.

22 (b) The functions of the Department of Water Resources related
23 to the purchase and sales of electric power under Division 27
24 (commencing with Section 1308) of the Water Code and all other
25 related functions of the Department of Water Resources pursuant
26 to that division, including, but not limited to, the issuance and
27 repayment of revenue bonds and the establishment and revision
28 of revenue requirements.

29 (c) All functions of the Energy Assessment Program or its
30 successor entity within the Department of General Services.

31 (d) All functions of the Energy Services Programs or their
32 successor entities in the Office of the State Architect within the
33 Department of General Services.

34 SEC. 63. Section 25203 of the Public Resources Code is
35 repealed.

36 SEC. 64. Section 25203 is added to the Public Resources Code,
37 to read:

38 25203. (a) There is, in the state government, the California
39 Energy Commission, which is hereby created within the
40 Department of Energy.

1 (b) The commission shall consist of all of the following:

2 (1) The Secretary of Energy, who shall serve as the chair of the
3 commission.

4 (2) Four public members with one member meeting each of the
5 following requirements:

6 (A) A person having a background in the field of engineering
7 or physical science with knowledge in energy supply or conversion
8 systems.

9 (B) A member of the State Bar of California with administrative
10 law experience.

11 (C) A person having a background in environmental protection
12 or the study of ecosystems.

13 (D) An economist with background and experience in the field
14 of natural resource management.

15 (3) The president of the California Public Utilities Commission.

16 (4) The chief operating officer of the California Independent
17 System Operator.

18 (5) The Secretary of the Natural Resources Agency.

19 (c) The president of the California Public Utilities Commission,
20 the chief operating officer of the California Independent System
21 Operator, and the Secretary of the Natural Resources Agency shall
22 serve as ex-officio, nonvoting members of the commission, whose
23 presence shall not be counted for a quorum or for vote
24 requirements.

25 (d) (1) The Governor shall appoint the public members of the
26 commission, subject to confirmation by the Senate, for a term of
27 four years. The public members shall serve staggered terms.

28 (2) A vacancy shall be filled by the Governor within 30 days
29 of the date on which a vacancy occurs for the unexpired portion
30 of the term in which it occurs or for any new term of office. If the
31 Governor fails to make an appointment for a vacancy within the
32 30-day period, the Senate Committee on Rules may make the
33 appointment to fill the vacancy for the unexpired portion of the
34 term in which the vacancy occurred or for any new term of office.

35 (3) On or before January 31, 2010, the Governor shall appoint
36 the initial members of the commission. Every appointment made
37 by the Governor to the commission shall be subject to the advice
38 and consent of a majority of the members elected to the Senate.

39 (4) The terms of office of the members of the commission shall
40 be for four years, except that the members first appointed to the

1 commission shall classify themselves by lot so that the term of
2 office of one member shall expire at the end of each one of the
3 four years following the effective date of this division. Any
4 vacancy shall be filled by the Governor within 30 days of the date
5 on which a vacancy occurs for the unexpired portion of the term
6 in which it occurs or for any new term of office.

7 (5) Each board member holding office on December 31, 2009,
8 shall continue to serve until his or her successor is appointed and
9 has been qualified to hold office. The order of replacement shall
10 be determined by lot.

11 (e) Each member of the commission shall represent the state at
12 large and not any particular area thereof, and shall serve on a
13 full-time basis.

14 (f) The secretary may name a designee who may act in the place
15 of the secretary in hearing any matter before the commission,
16 except on any matter for which the secretary determines he or she
17 may have a conflict of interest in hearing a case. The participation
18 of the designee will count for quorum and voting purposes.

19 (g) The commission hereby succeeds to, and is vested with, all
20 powers, duties, obligations, liabilities, responsibilities, and
21 jurisdiction of the predecessor State Energy Resources
22 Conservation and Development Commission set forth in Chapter
23 6 (commencing with Section 25500).

24 (h) Meetings of the commission shall be open to the public and
25 shall be conducted in accordance with the Bagley-Keene Open
26 Meeting Act (Article 9 (commencing with Section 11120) of
27 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
28 Code).

29 (i) The secretary may delegate to the commission the conduct
30 of a rulemaking, policy investigation, or quasi-adjudicatory
31 proceeding or other power or duty of the secretary if the secretary
32 determines that doing so would not conflict with other
33 responsibilities of the commission and that utilizing the procedures
34 of the commission would serve the public interest.

35 SEC. 65. Section 25204 of the Public Resources Code is
36 repealed.

37 SEC. 66. Section 25204 is added to the Public Resources Code,
38 to read:

39 25204. (a) All regulations and orders adopted by an entity
40 listed in subdivision (a) of Section 25201 or an entity listed in

1 Section 25202 with regard to functions of that entity described in
2 that section, and any of their predecessors in effect on or before
3 January 1, 2010, shall remain in effect with respect to the programs
4 and functions for which they were adopted, and shall be fully
5 enforceable unless and until readopted, amended, or repealed, or
6 until they expire by their own terms.

7 (b) Except as otherwise specified, a statute, law, rule, or
8 regulation now in force, or that may hereafter be enacted or adopted
9 that references an entity listed in subdivision (a) of Section 25201,
10 or an entity listed in Section 25202 with regard to functions of that
11 entity described in that section, or any of their predecessors shall
12 mean the Department of Energy.

13 (c) An action by or against the entities listed in subdivision (a)
14 of Section 25201 or Section 25202, or any of their predecessors
15 shall not abate but, except as provided in Section 25227.3, shall
16 continue in the name of the Department of Energy and the
17 department shall be substituted for the entities and any of their
18 predecessors by the court where the action is pending. The
19 substitution shall not in any way affect the rights of the parties to
20 the action.

21 (d) With respect to the members of the California Energy
22 Commission other than public members appointed pursuant to
23 paragraph (2) of subdivision (b) of Section 25203 or continuing
24 to serve pursuant to paragraph (3) of subdivision (d) of Section
25 25203, the rule in effect regarding ex parte communications shall
26 be applicable only as to communications regarding a matter
27 pending before the commission.

28 SEC. 67. Section 25205 of the Public Resources Code is
29 amended to read:

30 25205. (a) A person shall not be a member of the commission
31 pursuant to paragraph (2) of subdivision (b) of Section 25203 who,
32 during the two years prior to appointment on the commission,
33 received any substantial portion of his or her income directly or
34 indirectly from any electric utility, or who engages in sale or
35 manufacture of any major component of any facility subject to
36 licensing by the commission. A member of the commission shall
37 not be employed by any electric utility, applicant, or, within two
38 years after he or she ceases to be a member of the commission, by
39 any person who engages in the sale or manufacture of any major
40 component of any facility subject to licensing by the commission.

1 (b) Except as provided in Section 25203, the members of the
2 commission shall not hold any other elected or appointed public
3 office or position.

4 (c) The members of the commission and all employees of the
5 commission shall comply with all applicable provisions of Section
6 19251 of the Government Code.

7 (d) A person who is a member or employee of the commission
8 shall not participate personally and substantially as a member or
9 employee of the commission, through decision, approval,
10 disapproval, recommendation, the rendering of advice,
11 investigation, or otherwise, in a judicial or other proceeding,
12 hearing, application, request for a ruling, or other determination,
13 contract, claim, controversy, study, plan, or other particular matter
14 in which, to his or her knowledge, he or she, his or her spouse,
15 minor child, or partner, or any organization, except a governmental
16 agency or educational or research institution qualifying as a
17 nonprofit organization under state or federal income tax law, in
18 which he or she is serving, or has served as officer, director, trustee,
19 partner, or employee while serving as a member or employee of
20 the commission or within two years prior to his or her appointment
21 as a member of the commission, has a direct or indirect financial
22 interest.

23 (e) A person who is a partner, employer, or employee of a
24 member or employee of the commission shall not act as an attorney,
25 agent, or employee for any person other than the state in connection
26 with any judicial or other proceeding, hearing, application, request
27 for a ruling, or other determination, contract, claim, controversy,
28 study, plan, or other particular matter in which the commission is
29 a party or has a direct and substantial interest.

30 (f) This section shall not apply if the Attorney General finds
31 that the interest of the member or employee of the commission is
32 not so substantial as to be deemed likely to affect the integrity of
33 the services that the state may expect from the member or
34 employee.

35 (g) A person who violates this section is guilty of a felony and
36 shall be subject to a fine of not more than ten thousand dollars
37 (\$10,000) or imprisonment in the state prison, or both.

38 (h) The amendment of subdivision (d) of this section enacted
39 by the 1975–76 Regular Session of the Legislature does not
40 constitute a change in, but is declaratory of, existing law.

1 SEC. 68. Section 25205.5 is added to the Public Resources
2 Code, to read:

3 25205.5. A contract, lease, license, bond, or any other
4 agreement to which an entity listed in subdivision (a) of Section
5 25201, or an entity listed in Section 25202 with regard to functions
6 of that entity described in that section, or any of their predecessors
7 are a party shall not be void or voidable by reason of this act, but
8 shall continue in full force and effect, with the Department of
9 Energy assuming all the rights, obligations, liabilities, and duties
10 of the entity and any of its predecessors. That assumption by the
11 department shall not in any way affect the rights of the parties to
12 the contract, lease, license, or agreement. Bonds issued by the
13 entity or any of its predecessors, on or before January 1, 2010,
14 shall become the indebtedness of any newly created entity. Any
15 ongoing obligations or responsibilities of the entity or any of its
16 predecessors for managing and maintaining bond issuances shall
17 be transferred to the newly created entity without impairment to
18 any security contained in the bond instrument.

19 SEC. 69. Section 25206 of the Public Resources Code is
20 repealed.

21 SEC. 70. Section 25206 is added to the Public Resources Code,
22 to read:

23 25206. On and after January 1, 2010, the unexpended balance
24 of all funds available for use by the entities listed in subdivision
25 (a) of Section 25201, or the entities listed in Section 25202 for the
26 performance of functions of these entities described in that section,
27 or any of their predecessors in carrying out a function transferred
28 to the Department of Energy shall be available for use by the
29 department. Unexpended balances shall be utilized consistent with
30 the purposes for which they were appropriated. All books,
31 documents, records, and property of the entities shall be transferred
32 to the department.

33 SEC. 71. Section 25207 of the Public Resources Code is
34 amended to read:

35 25207. (a) The public members of the commission shall receive
36 the salary provided for by Chapter 6 (commencing with Section
37 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

38 (b) Each member of the commission shall receive the necessary
39 traveling and other expenses incurred in the performance of his

1 official duties. When necessary, the members of the commission
2 and its employees may travel within or without the state.

3 SEC. 72. Section 25207.5 is added to the Public Resources
4 Code, to read:

5 25207.5. (a) An officer or employee of the entities listed in
6 subdivision (a) of Section 25201 or Section 25202 who is
7 performing a function transferred to the Department of Energy
8 and who is serving in the state civil service, other than as a
9 temporary employee, shall be transferred to the department. The
10 status, position, and rights of an officer or employee of the entities
11 shall not be affected by the transfer and shall be retained by the
12 person as an officer or employee of the department, as the case
13 may be, pursuant to the State Civil Service Act (Part 2
14 (commencing with Section 18500) of Division 5 of Title 2 of the
15 Government Code), except as to a position that is exempt from
16 civil service.

17 (b) The Department of Energy shall have possession and control
18 of all records, pages, offices, equipment, supplies, moneys, funds,
19 appropriations, licenses, permits, agreements, contracts, claims,
20 judgments, land, and other property, real or personal, connected
21 with the administration of, or held for, the benefit or use of the
22 entities listed in subdivision (a) of Section 25201 or for the
23 performance of the functions listed in Section 25202.

24 SEC. 73. Section 25208 is added to the Public Resources Code,
25 to read:

26 25208. (a) All responsibilities of the Public Utilities
27 Commission that are transferred pursuant to subdivision (b) of
28 Section 1001 of the Public Utilities Code shall be transferred in
29 an expeditious and orderly manner to the Department of Energy
30 or the California Energy Commission, as the case may be.
31 Resources, including personnel, associated with responsibilities
32 transferred to the department shall also be transferred to the
33 department in an expeditious manner. The Secretary of Energy
34 may allocate the responsibilities transferred to the department by
35 the Public Utilities Commission among the divisions of the
36 department.

37 (b) Applications on file before the Public Utilities Commission
38 on or before January 1, 2010, may proceed to decision before the
39 Public Utilities Commission and the procedural rules and

1 substantive regulations of that agency shall apply until a final
2 decision on the application.

3 (c) On and after January 1, 2010, all rules and orders in effect
4 with respect to the requirements of an application for certificate
5 under Section 1001 of the Public Utilities Code, including, but not
6 limited to, General Order 131-D of the Public Utilities
7 Commission, shall remain in effect and shall also be considered a
8 rule of the department. The secretary shall cause timely publication
9 of all rules that may be enumerated to effect a logical integration
10 with other rules of the department. Any subsequent modification
11 of these rules as they apply to the jurisdiction of the department
12 shall be carried out in conformance with the procedures of the
13 department.

14 (d) The commission and the Public Utilities Commission may,
15 by jointly adopted order, provide a mechanism for an applicant to
16 move for the transfer of an application pending before the Public
17 Utilities Commission for completion before the commission. The
18 order shall preserve the status and rights of any party to an existing
19 proceeding.

20 SEC. 74. Section 25212 of the Public Resources Code is
21 amended to read:

22 25212. The Secretary of Energy may appoint a vice chair of
23 the commission from among its public members.

24 SEC. 75. Section 25214 of the Public Resources Code is
25 amended to read:

26 25214. The commission shall maintain its headquarters in the
27 County of Sacramento and may establish branch offices in the
28 parts of the state as the commission deems necessary. The
29 commission shall hold meetings at the times and at the places as
30 shall be determined by it. All meetings and hearings of the
31 commission shall be open to the public, and opportunity to be
32 heard with respect to the subject of the hearings shall be afforded
33 to any person. Upon request, an interested party may be granted
34 reasonable opportunity to examine any witness testifying at the
35 hearing. The first meeting of the commission shall be held within
36 30 days after the confirmation of the last member of the
37 commission pursuant to Section 25204. The Governor shall
38 designate the time and place for the first meeting of the
39 commission.

1 SEC. 76. Section 25216.5 of the Public Resources Code is
2 amended to read:

3 25216.5. The department shall do all of the following:

4 (a) Prescribe the form and content of applications for facilities;
5 conduct public hearings and take other actions to secure adequate
6 evaluation of applications; and formally act to approve or
7 disapprove applications, including specifying conditions under
8 which approval and continuing operation of any facility shall be
9 permitted.

10 (b) Prepare an integrated plan specifying actions to be taken in
11 the event of an impending serious shortage of energy, or a clear
12 threat to public health, safety, or welfare.

13 (c) Evaluate policies governing the establishment of rates for
14 electric power and other sources of energy as related to energy
15 conservation, environmental protection, and other goals and
16 policies established in this division, and transmit recommendations
17 for changes in power-pricing policies and rate schedules to the
18 Governor, the Legislature, to the Public Utilities Commission, and
19 to publicly owned electric utilities.

20 (d) Serve as a central repository within the state government
21 for the collection, storage, retrieval, and dissemination of data and
22 information on all forms of energy supply, demand, conservation,
23 public safety, research, and related subjects. The data and
24 information shall be derived from all sources, including, but not
25 be limited to, electric and gas utilities, oil and other energy
26 producing companies, institutions of higher education, private
27 industry, public and private research laboratories, private
28 individuals, and from any other source that the department
29 determines is necessary to carry out its objectives under this
30 division. The department may charge and collect a reasonable fee
31 for retrieving and disseminating any information to cover the cost
32 of that service. Any funds received by the department pursuant to
33 this subdivision shall be deposited in the account and are
34 continuously appropriated for expenditure, by the department, for
35 purposes of retrieving and disseminating any such information
36 pursuant to this section.

37 SEC. 77. Section 25217 of the Public Resources Code is
38 repealed.

39 SEC. 78. Section 25217.1 of the Public Resources Code is
40 amended to read:

1 25217.1. The secretary shall nominate a public adviser to the
2 department who shall be an attorney admitted to the practice of
3 law in this state and who shall serve at the pleasure of the secretary
4 and shall carry out the provisions of Section 25222 as well as other
5 duties prescribed by this division or by the secretary.

6 SEC. 79. Section 25217.5 of the Public Resources Code is
7 repealed.

8 SEC. 80. Section 25218 of the Public Resources Code is
9 amended to read:

10 25218. In addition to other powers specified in this division,
11 the department may do any of the following:

12 (a) Apply for and accept grants, contributions, and
13 appropriations.

14 (b) Contract for professional services if such work or services
15 cannot be satisfactorily performed by its employees or by any other
16 state agency.

17 (c) Be sued and sue.

18 (d) Request and utilize the advice and services of all federal,
19 state, local, and regional agencies.

20 (e) Adopt any rule or regulation, or take any action, it deems
21 reasonable and necessary to carry out the provisions of this
22 division.

23 (f) Adopt rules and regulations, or take any action, it deems
24 reasonable and necessary to ensure the free and open participation
25 of any member of the staff in proceedings before the department.

26 SEC. 81. Section 25219 of the Public Resources Code is
27 amended to read:

28 25219. As to any matter involving the federal government, its
29 departments or agencies, which is within the scope of the power
30 and duties of the department, the department may represent its
31 interest or the interest of any county, city, state agency, or public
32 district upon its request, and to that end may correspond, confer,
33 and cooperate with the federal government, its departments or
34 agencies.

35 SEC. 82. Section 25220 of the Public Resources Code is
36 amended to read:

37 25220. The department may participate as a party, to the extent
38 that it shall determine, in any proceeding before any federal or
39 state agency having authority whatsoever to approve or disapprove
40 any aspect of a proposed facility, receive notice from any applicant

1 of all applications and pleadings filed subsequently by those
2 applicants in any of those proceedings, and, by its request, receive
3 copies of any of the subsequently filed applications and pleadings
4 that it shall deem necessary.

5 SEC. 83. Section 25221 of the Public Resources Code is
6 amended to read:

7 25221. Except as provided in Sections 341 and 341.4 of the
8 Public Utilities Code, upon request of the department, the Attorney
9 General shall represent the department and the state in litigation
10 concerning affairs of the department, unless the Attorney General
11 represents another state agency, in which case the department shall
12 be authorized to employ other counsel.

13 SEC. 84. Section 25222 of the Public Resources Code is
14 amended to read:

15 25222. The adviser shall insure that full and adequate
16 participation by all interested groups and the public at large is
17 secured in the planning, site and facility certification, energy
18 conservation, and emergency allocation procedures provided in
19 this division. The adviser shall insure that timely and complete
20 notice of department and commission meetings and public hearings
21 is disseminated to all interested groups and to the public at large.
22 The adviser shall also advise these groups and the public as to
23 effective ways of participating in the department's and the
24 commission's proceedings. The adviser shall recommend to the
25 department and the commission additional measures to assure open
26 consideration and public participation in energy planning, site and
27 facility certification, energy conservation, and emergency allocation
28 proceedings.

29 SEC. 85. Section 25223 of the Public Resources Code is
30 amended to read:

31 25223. (a) Except as provided in subdivision (b), the
32 department and the commission shall make available any
33 information filed or submitted pursuant to this division under the
34 provisions of the California Public Records Act, Chapter 3.5
35 (commencing with Section 6250) of Division 7, Title 1 of the
36 Government Code.

37 (b) The department and the commission shall keep confidential
38 any information submitted to the Division of Oil and Gas of the
39 Department of Conservation that the division determines, pursuant
40 to Section 3752, to be proprietary.

1 SEC. 86. Section 25224 of the Public Resources Code is
2 amended to read:

3 25224. The department and other state agencies shall, to the
4 fullest extent possible, exchange records, reports, material, and
5 other information relating to energy resources and conservation
6 and power facilities siting, or any areas of mutual concern, to the
7 end that unnecessary duplication of effort may be avoided.

8 SEC. 87. Section 25225 of the Public Resources Code is
9 amended to read:

10 25225. (a) Prior to expending any funds for any research,
11 development, or demonstration program or project relating to
12 vehicles or vehicle fuels, the department shall do both of the
13 following, using existing resources:

14 (1) Adopt a plan describing any proposed expenditure that sets
15 forth the expected costs and qualitative as well as quantitative
16 benefits of the proposed program or project.

17 (2) Find that the proposed program or project will not duplicate
18 any other past or present publicly funded California program or
19 project. This paragraph is not intended to prevent funding for
20 programs or projects jointly funded with another public agency
21 where there is no duplication.

22 (b) Within 120 days from the date of the conclusion of a program
23 or project subject to subdivision (a) that is funded by the
24 department, the department shall issue a public report that sets
25 forth the actual costs of the program or project, the results achieved
26 and how they compare with expected costs and benefits determined
27 pursuant to paragraph (1) of subdivision (a), and any problems
28 that were encountered by the program or project.

29 (c) (1) This section does not apply to any funds appropriated
30 for research, development, or demonstration pursuant to a statute
31 that expressly specifies both of the following:

32 (A) A vehicle technology or vehicle fuel that is the subject of
33 the research, development, or demonstration.

34 (B) The purpose of, or anticipated products of, the research,
35 development, or demonstration.

36 (2) This section does not apply to the Katz Safe Schoolbus Clean
37 Fuel Efficiency Demonstration Program (Part 10.7 (commencing
38 with Section 17910) of Division 1 of Title 1 of the Education
39 Code).

1 SEC. 88. Section 25226 of the Public Resources Code is
2 amended to read:

3 25226. (a) The Energy Technologies Research, Development,
4 and Demonstration Account established under former Section
5 25683 is hereby continued in existence, in the General Fund, to
6 be administered by the department for the purpose of carrying out
7 Chapter 7.3 (commencing with Section 25630) and Chapter 7.5
8 (commencing with Section 25650).

9 (b) The Controller shall deposit in the account all money
10 appropriated to the account by the Legislature, plus accumulated
11 interest on that money, and money from loan repayments, interest,
12 and royalties pursuant to Sections 25630 and 25650, for use by
13 the department, upon appropriation by the Legislature, for the
14 purposes specified in Chapter 7.3 (commencing with Section
15 25630) and Chapter 7.5 (commencing with Section 25650).

16 SEC. 89. Chapter 3.5 (commencing with Section 25227) is
17 added to Division 15 of the Public Resources Code, to read:

18
19 CHAPTER 3.5. OFFICE OF ENERGY MARKET OVERSIGHT
20

21 25227. In order to ensure that the interests of the people of
22 California are served, there is hereby created within the department,
23 the Office of Energy Market Oversight. Under the direction of the
24 Secretary of Energy, the office shall perform all of the following
25 functions:

26 (a) Oversee the Independent System Operator.

27 (b) Hear and decide appeals of majority decisions of the
28 Independent System Operator governing board, as they relate to
29 matters subject to exclusive state jurisdiction, as specified in
30 Section 25227.3.

31 (c) Investigate any matter related to the wholesale market for
32 electricity to ensure that the interests of California's citizens and
33 consumers are served, protected, and represented in relation to the
34 availability of electric transmission and generation and related
35 costs.

36 (d) Appear in all relevant proceedings before the Federal Energy
37 Regulatory Commission on behalf of California energy consumers
38 and as the representative of the state's energy policy.

1 25227.1. (a) Any reference in the law to the “Electricity
2 Oversight Board” shall mean the Office of Energy Market
3 Oversight in the Department of Energy, as successor to that board.

4 (b) The Office of Energy Market Oversight may exercise any
5 right that exists in the name of the former Electricity Oversight
6 Board and may pursue and continue to final resolution any claim
7 or right that exists in the name of the Electricity Oversight Board.
8 It may take an action in its own name, or may maintain it in the
9 name of the former Electricity Oversight Board, as it determines
10 will best preserve and protect the interests of the public in those
11 rights or claims.

12 (c) An action initiated, joined, or pursued by the Office of
13 Energy Market Oversight shall not be considered an action by any
14 other office, division, or commission within the Department of
15 Energy unless specifically stated in a pleading. The office shall
16 maintain separation and procedures, as are necessary, to prevent
17 any inappropriate sharing of personnel or flow of proprietary
18 information between its market monitoring and investigation
19 functions and any program or function within the department that
20 has a market interest.

21 (d) Any pending litigation for which there could be a conflict
22 if combined with another program reorganized under the
23 Department of Energy, including, but not limited to, the Federal
24 Energy Regulatory Commission dockets EL02-60 and EL02-62,
25 and any related appeals or remands, shall be continued by the
26 Office of Energy Market Oversight in the name of the Electricity
27 Oversight Board and maintained separate from all other programs
28 of the department. The office shall report on the resolution of those
29 cases any such case directly to the legal affairs office of the
30 Governor.

31 (e) Other agencies that are parties to, or commenting agencies
32 in, matters before the Federal Energy Regulatory Commission, on
33 and after January 1, 2010, shall cooperate with the office to
34 promote coordination of the state’s advocacy with respect to those
35 matters.

36 25227.2. (a) The Office of Energy Market Oversight shall hear
37 and decide appeals of majority decisions of the Independent System
38 Operator governing board relating to matters that are identified in
39 subdivision (b) as they pertain to the Independent System Operator.

1 (b) The following matters are subject to California's exclusive
2 jurisdiction:

3 (1) Selections by California of governing board members, as
4 described in Section 345.1 of the Public Utilities Code.

5 (2) Matters pertaining to retail electric service or retail sales of
6 electric energy.

7 (3) Ensuring that the purposes and functions of the Independent
8 System Operator and Power Exchange are consistent with the
9 purposes and functions of California nonprofit public benefit
10 corporations, including duties of care and conflict of interest
11 standards for directors of the corporations.

12 (4) State functions assigned to the Independent System Operator
13 and Power Exchange under state law.

14 (5) Open meeting standards and meeting notice requirements.

15 (6) Appointment of advisory representatives representing state
16 interests.

17 (7) Public access to corporate records.

18 (8) The amendment of bylaws relevant to these matters.

19 (c) Only members of the Independent System Operator
20 governing board may appeal a majority decision of the Independent
21 System Operator related to any of the matters specified in
22 subdivision (b) to the Office of Energy Market Oversight.

23 25227.3. The Office of Energy Market Oversight may do all
24 of the following:

25 (a) Accept appropriations, grants, or contributions from any
26 public source, private foundation, or individual.

27 (b) Sue and be sued.

28 (c) Contract with state, local, or federal agencies for services
29 or work required by the office.

30 (d) Contract for or employ any services or work, including
31 expert witness and attorney services required by the office that in
32 its opinion cannot satisfactorily be performed by its staff, by other
33 subdivisions of the department, or by other state agencies.

34 (e) Appoint advisory committees from members of other public
35 agencies and private groups or individuals.

36 (f) Hold hearings at the times and places it may deem proper.

37 (g) Issue subpoenas to compel the production of books, records,
38 papers, accounts, reports, and documents and the attendance of
39 witnesses.

40 (h) Administer oaths.

1 (i) Adopt or amend rules and regulations to carry out the
2 purposes and provisions of this chapter, and to govern the
3 procedures of the office.

4 (j) Exercise any authority consistent with this chapter delegated
5 to it by a federal agency or authorized to it by federal law.

6 (k) Under the direction of the secretary, make recommendations
7 to the Governor and the Legislature.

8 (l) Participate in proceedings relevant to the purposes of this
9 chapter or to the purposes of Division 4.9 (commencing with
10 Section 9600) of the Public Utilities Code or consistent with the
11 policies of the department, participate in activities to promote the
12 formation of interstate agreements to enhance the reliability and
13 function of the electricity system and the electricity market.

14 (m) Do any and all other things necessary to carry out the
15 purposes of this chapter.

16 25228. The Office of Energy Market Oversight may adopt
17 rules or protective orders to protect the confidential status of market
18 sensitive information.

19 25228.2. (a) The Office of Energy Market Oversight in the
20 department succeeds to and is vested with all duties,
21 responsibilities, powers, jurisdiction, liabilities, and functions of
22 the Electricity Oversight Board, which is hereby abolished. Any
23 reference in any law to the duties, responsibilities, powers, and
24 functions of the Electricity Oversight Board, which no longer
25 exists, shall be considered a reference to the Office of Energy
26 Market Oversight unless the context otherwise requires.

27 (b) All officers and employees of the Electricity Oversight Board
28 who, on January 1, 2010, are serving in the state civil service, other
29 than as temporary employees, shall be transferred to the
30 Department of Energy pursuant to Section 19050.9 of the
31 Government Code. The status, position, and rights of any officer
32 or employee of the board shall not be affected by the transfer and
33 shall be retained by the person as an officer or employee of the
34 department, as the case may be, pursuant to the State Civil Service
35 Act (Part 2 (commencing with Section 18500) of Division 5 of
36 Title 2 of the Government Code), except as to a position that is
37 exempt from civil service.

38 (c) As soon as practicable, the Secretary of Energy shall report
39 to the Department of Finance on whether the resources transferred
40 to the department are sufficient to ensure that all of the state's

1 interests can be adequately represented under subdivision (d) of
2 Section 25227. The Department of Finance shall assess whether
3 the consolidation of this function under the department allows the
4 transfer of any resources previously used to support this function
5 within any other agency to the department.

6 25228.4. The secretary may appoint, and fix the salary of, a
7 deputy who shall have charge of administering the affairs of the
8 Office of the Energy Market Oversight, including entering into
9 contracts, subject to policies of the department. Notwithstanding
10 Sections 11042 and 11043 of the Government Code, the office
11 shall appoint an attorney who shall advise and represent the office
12 and the People of the State of California as a party in any state or
13 federal action, proceeding, or litigation related to the purposes of
14 this chapter or to an action of the office and who shall perform
15 generally all the duties of attorney with respect to the office.

16 SEC. 90. Section 25301 of the Public Resources Code is
17 amended to read:

18 25301. (a) At least every two years, the department shall
19 conduct assessments and forecasts of all aspects of energy industry
20 supply, production, transportation, delivery and distribution,
21 demand, and prices. The department shall use these assessments
22 and forecasts to develop energy policies that conserve resources,
23 protect the environment, ensure energy reliability, enhance the
24 state's economy, and protect public health and safety. To perform
25 these assessments and forecasts, the department may require
26 submission of demand forecasts, resource plans, market
27 assessments, and related outlooks from electric and natural gas
28 utilities, transportation fuel and technology suppliers, and other
29 market participants. These assessments and forecasts shall be done
30 in consultation with the appropriate state and federal agencies
31 including, but not limited to, the Public Utilities Commission, the
32 Office of Ratepayer Advocates, the Air Resources Board, the
33 Independent System Operator, the Department of Water Resources,
34 the Department of Transportation, and the Department of Motor
35 Vehicles.

36 (b) In developing the assessments and forecasts prepared
37 pursuant to subdivision (a), the department shall do all of the
38 following:

39 (1) Provide information about the performance of energy
40 industries.

1 (2) Develop and maintain the analytical capability sufficient to
2 answer inquiries about energy issues from government, market
3 participants, and the public.

4 (3) Analyze and develop energy policies.

5 (4) Provide an analytical foundation for regulatory and policy
6 decisionmaking.

7 (5) Facilitate efficient and reliable energy markets.

8 SEC. 91. Section 25302 of the Public Resources Code is
9 amended to read:

10 25302. (a) Beginning November 1, 2003, and every two years
11 thereafter, the department shall adopt an integrated energy policy
12 report. This integrated report shall contain an overview of major
13 energy trends and issues facing the state, including, but not limited
14 to, supply, demand, pricing, reliability, efficiency, and impacts on
15 public health and safety, the economy, resources, and the
16 environment. Energy markets and systems shall be grouped and
17 assessed in three subsidiary volumes:

18 (1) Electricity and natural gas markets.

19 (2) Transportation fuels, technologies, and infrastructure.

20 (3) Public interest energy strategies.

21 (b) The department shall compile the integrated energy policy
22 report prepared pursuant to subdivision (a) by consolidating the
23 analyses and findings of the subsidiary volumes in paragraphs (1),
24 (2), and (3) of subdivision (a). The integrated energy policy report
25 shall present policy recommendations based on an indepth and
26 integrated analysis of the most current and pressing energy issues
27 facing the state. The analyses supporting this integrated energy
28 policy report shall explicitly address interfuel and intermarket
29 effects to provide a more informed evaluation of potential tradeoffs
30 when developing energy policy across different markets and
31 systems.

32 (c) The integrated energy policy report shall include an
33 assessment and forecast of system reliability and the need for
34 resource additions, efficiency, and conservation that considers all
35 aspects of energy industries and markets that are essential for the
36 state economy, general welfare, public health and safety, energy
37 diversity, and protection of the environment. This assessment shall
38 be based on determinations made pursuant to this chapter.

39 (d) Beginning November 1, 2004, and every two years thereafter,
40 the department shall prepare an energy policy review to update

1 analyses from the integrated energy policy report prepared pursuant
2 to subdivisions (a), (b), and (c), or to raise energy issues that have
3 emerged since the release of the integrated energy policy report.
4 The department may also periodically prepare and release technical
5 analyses and assessments of energy issues and concerns to provide
6 timely and relevant information for the Governor, the Legislature,
7 market participants, and the public.

8 (e) In preparation of the report, the department shall consult
9 with the following entities: the Public Utilities Commission, the
10 Office of Ratepayer Advocates, the State Air Resources Board,
11 the Independent System Operator, the Department of Water
12 Resources the Department of Transportation, and the Department
13 of Motor Vehicles, and any federal, state, and local agencies it
14 deems necessary in preparation of the integrated energy policy
15 report. To assure collaborative development of state energy
16 policies, these agencies shall make a good faith effort to provide
17 data, assessment, and proposed recommendations for review by
18 the department.

19 (f) The department shall provide the report to the Public Utilities
20 Commission, the Office of Ratepayer Advocates, the State Air
21 Resources Board, the Independent System Operator, the
22 Department of Water Resources, and the Department of
23 Transportation. For the purpose of ensuring consistency in the
24 underlying information that forms the foundation of energy policies
25 and decisions affecting the state, those entities shall carry out their
26 energy-related duties and responsibilities based upon the
27 information and analyses contained in the report. If an entity listed
28 in this subdivision objects to information contained in the report,
29 and has a reasonable basis for that objection, the entity shall not
30 be required to consider that information in carrying out its
31 energy-related duties.

32 (g) The department shall make the report accessible to state,
33 local, and federal entities and to the general public.

34 SEC. 92. Section 25303 of the Public Resources Code is
35 amended to read:

36 25303. (a) The department shall conduct electricity and natural
37 gas forecasting and assessment activities to meet the requirements
38 of paragraph (1) of subdivision (a) of Section 25302, including,
39 but not limited to, all of the following:

1 (1) Assessment of trends in electricity and natural gas supply
2 and demand, and the outlook for wholesale and retail prices for
3 commodity electricity and natural gas under current market
4 structures and expected market conditions.

5 (2) Forecasts of statewide and regional electricity and natural
6 gas demand including annual, seasonal, and peak demand, and the
7 factors leading to projected demand growth, including, but not
8 limited to, projected population growth, urban development,
9 industrial expansion and energy intensity of industries, energy
10 demand for different building types, energy efficiency, and other
11 factors influencing demand for electricity. With respect to
12 long-range forecasts of the demand for natural gas, the report shall
13 include an evaluation of average conditions, as well as best and
14 worst case scenarios, and an evaluation of the impact of the
15 increasing use of renewable resources on natural gas demand.

16 (3) Evaluation of the adequacy of electricity and natural gas
17 supplies to meet forecasted demand growth. Assessment of the
18 availability, reliability, and efficiency of the electricity and natural
19 gas infrastructure and systems, including, but not limited to, natural
20 gas production capability both in and out of state, natural gas
21 interstate and intrastate pipeline capacity, storage and use, and
22 western regional and California electricity and transmission system
23 capacity and use.

24 (4) Evaluation of potential impacts of electricity and natural gas
25 supply, demand, and infrastructure and resource additions on the
26 electricity and natural gas systems, public health and safety, the
27 economy, resources, and the environment.

28 (5) Evaluation of the potential impacts of electricity and natural
29 gas load management efforts, including end-user response to
30 market price signals, as a means to ensure reliable operation of
31 electricity and natural gas systems.

32 (6) Evaluation of whether electricity and natural gas markets
33 are adequately meeting public interest objectives including the
34 provision of all of the following: economic benefits; competitive,
35 low-cost reliable services; customer information and protection;
36 and environmentally sensitive electricity and natural gas supplies.
37 This evaluation may consider the extent to which California is an
38 element within western energy markets, the existence of appropriate
39 incentives for market participants to provide supplies and for
40 consumers to respond to energy prices, appropriate identification

1 of responsibilities of various market participants, and an assessment
2 of long-term versus short-term market performance. To the extent
3 this evaluation identifies market shortcomings, the department
4 shall propose market structure changes to improve performance.

5 (7) Identification of impending or potential problems or
6 uncertainties in the electricity and natural gas markets, potential
7 options and solutions, and recommendations.

8 (8) (A) Compilation and assessment of existing scientific studies
9 that have been performed by persons or entities with expertise and
10 qualifications in the subject of the studies to determine the potential
11 vulnerability to a major disruption due to aging or a major seismic
12 event of large baseload generation facilities, of 1,700 megawatts
13 or greater.

14 (B) The assessment specified in subparagraph (A) shall include
15 an analysis of the impact of a major disruption on system reliability,
16 public safety, and the economy.

17 (C) The commission may work with other public entities and
18 public agencies, including, but not limited to, the California
19 Independent System Operator, the Public Utilities Commission,
20 the Department of Conservation, and the Seismic Safety
21 Commission as necessary, to gather and analyze the information
22 required by this paragraph.

23 (D) Upon completion and publication of the initial review of
24 the information required pursuant to this paragraph, the commission
25 shall perform subsequent updates as new data or new understanding
26 of potential seismic hazards emerge.

27 (b) Commencing November 1, 2003, and every two years
28 thereafter, to be included in the integrated energy policy report
29 prepared pursuant to Section 25302, the department shall assess
30 the current status of the following:

31 (1) The environmental performance of the electric generation
32 facilities of the state, to include all of the following:

33 (A) Generation facility efficiency.

34 (B) Air emission control technologies in use in operating plants.

35 (C) The extent to which recent resource additions have, and
36 expected resource additions are likely to, displace or reduce the
37 operation of existing facilities, including the environmental
38 consequences of these changes.

39 (2) The geographic distribution of statewide environmental,
40 efficiency, and socioeconomic benefits and drawbacks of existing

1 generation facilities, including, but not limited to, the impacts on
2 natural resources including wildlife habitat, air quality, and water
3 resources, and the relationship to demographic factors. The
4 assessment shall describe the socioeconomic and demographic
5 factors that existed when the facilities were constructed and the
6 current status of these factors. In addition, the report shall include
7 how expected or recent resource additions could change the
8 assessment through displaced or reduced operation of existing
9 facilities.

10 (c) In the absence of a long-term nuclear waste storage facility,
11 the department shall assess the potential state and local costs and
12 impacts associated with accumulating waste at California's nuclear
13 powerplants. The department shall further assess other key policy
14 and planning issues that will affect the future role of nuclear
15 powerplants in the state. The department's assessment shall be
16 adopted on or before November 1, 2008, and included in the 2008
17 energy policy review adopted pursuant to subdivision (d) of Section
18 25302.

19 SEC. 93. Section 25304 of the Public Resources Code is
20 amended to read:

21 25304. The department shall conduct transportation forecasting
22 and assessment activities to meet the requirements of paragraph
23 (2) of subdivision (a) of Section 25302 including, but not limited
24 to:

25 (a) Assessment of trends in transportation fuels, technologies,
26 and infrastructure supply and demand and the outlook for wholesale
27 and retail prices for petroleum, petroleum products, and alternative
28 transportation fuels under current market structures and expected
29 market conditions.

30 (b) Forecasts of statewide and regional transportation energy
31 demand, both annual and seasonal, and the factors leading to
32 projected demand growth including, but not limited to, projected
33 population growth, urban development, vehicle miles traveled, the
34 type, class, and efficiency of personal vehicles and commercial
35 fleets, and shifts in transportation modes.

36 (c) Evaluation of the sufficiency of transportation fuel supplies,
37 technologies, and infrastructure to meet projected transportation
38 demand growth. Assessment of crude oil and other transportation
39 fuel feedstock supplies; in-state, national, and worldwide
40 production and refining capacity; product output storage

1 availability; and transportation and distribution systems capacity
2 and use.

3 (d) Assessments of the risks of supply disruptions, price shocks,
4 or other events and the consequences of these events on the
5 availability and price of transportation fuels and effects on the
6 state's economy.

7 (e) Evaluation of the potential for needed changes in the state's
8 energy shortage contingency plans to increase production and
9 productivity, improve efficiency of fuel use, increase conservation
10 of resources, and other actions to maintain sufficient, secure, and
11 affordable transportation fuel supplies for the state.

12 (f) Evaluation of alternative transportation energy scenarios, in
13 the context of least environmental and economic costs, to examine
14 potential effects of alternative fuels usage, vehicle efficiency
15 improvements, and shifts in transportation modes on public health
16 and safety, the economy, resources, the environment, and energy
17 security.

18 (g) Examination of the success of introduction, prices, and
19 availability of advanced transportation technologies, low- or
20 zero-emission vehicles, and clean-burning transportation fuels,
21 including their potential future contributions to air quality, energy
22 security, and other public interest benefits.

23 (h) Recommendations to improve the efficiency of transportation
24 energy use, reduce dependence on petroleum fuels, decrease
25 environmental impacts from transportation energy use, and
26 contribute to reducing congestion, promoting economic
27 development, and enhancing energy diversity and security.

28 SEC. 94. Section 25305 of the Public Resources Code is
29 amended to read:

30 25305. The department shall rely upon forecasting and
31 assessments performed in accordance with Sections 25301 to
32 25304, inclusive, as the basis for analyzing the success of and
33 developing policy recommendations for public interest energy
34 strategies. Public interest energy strategies include, but are not
35 limited to, achieving energy efficiency and energy conservation;
36 implementing load management; pursuing research, development,
37 demonstration, and commercialization of new technologies;
38 promoting renewable generation technologies; reducing statewide
39 greenhouse gas emissions and addressing the impacts of climate
40 change on California; stimulating California's energy-related

1 business activities to contribute to the state's economy; and
2 protecting and enhancing the environment. Additional assessments
3 to address public interest energy strategies shall include, but are
4 not limited to, all of the following:

5 (a) Identification of emerging trends in energy efficiency in the
6 residential, commercial, industrial, agricultural, and transportation
7 sectors of the state's economy, including, but not limited to,
8 evaluation of additional achievable energy efficiency measures
9 and technologies. Identification of policies that would permit fuller
10 realization of the potential for energy efficiency, either through
11 direct programmatic actions or facilitation of the market.

12 (b) Identification of emerging trends in the renewable energy
13 industry. In addition, the department shall evaluate progress in
14 ensuring the operation of existing facilities, and the development
15 of new and emerging, in-state renewable resources.

16 (c) Identification of emerging trends in energy research,
17 development, and demonstration activities that advance science
18 or technology to produce public benefits.

19 (d) Identification of progress in reducing statewide greenhouse
20 gas emissions and addressing the effects of climate change on
21 California.

22 SEC. 95. Section 25305.5 of the Public Resources Code is
23 amended to read:

24 25305.5. The department shall include in its report prepared
25 pursuant to Sections 25301 to 25304, inclusive, a description of
26 international energy market prospects and an evaluation of its
27 export promotion activities, as well as an assessment of the state
28 of the California energy technology and energy conservation
29 industry's efforts to enter foreign markets. The report shall also
30 include recommendations for state government initiatives to foster
31 the California energy technology and energy conservation
32 industry's competition in world markets.

33 SEC. 96. Section 25306 of the Public Resources Code is
34 amended to read:

35 25306. The department shall conduct workshops, hearings,
36 and other forums to gain the perspectives of the public and market
37 participants for purposes of the integrated energy policy report
38 prepared pursuant to Section 25302 and the forecasting and
39 assessments prepared pursuant to Sections 25301, 25303, 25304,
40 and 25305. The department shall include the comments, as well

1 as responses to those comments, of governmental agencies, industry
2 representatives, market participants, private groups, and any other
3 person concerning the commission's proposals and
4 recommendations in the docket for the integrated energy policy
5 report.

6 SEC. 97. Section 25320 of the Public Resources Code is
7 amended to read:

8 25320. (a) The department shall manage a data collection
9 system for obtaining information necessary to develop the policy
10 reports and analyses required by Sections 25301 to 25307,
11 inclusive, the energy shortage contingency planning efforts in
12 Chapter 8 (commencing with Section 25700), and to support other
13 duties of the department.

14 (b) The data collection system, adopted by regulation under
15 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
16 3 of Title 2 of the Government Code, and managed by the
17 department shall:

18 (1) Include a timetable for the submission of this information,
19 so that the integrated energy policy report required by Section
20 25302 can be completed in an accurate and timely manner.

21 (2) Require a person to submit only information that is
22 reasonably relevant, and that the person can either be expected to
23 acquire through his or her market activities, or possesses or
24 controls. Information collected pursuant to this section shall relate
25 to the functional role of each category of market participant in that
26 industry and the consumers within that industry.

27 (3) To the extent it satisfies the information needs of the
28 department, rely on the use of estimates and proxies, to the
29 maximum extent practicable, for some data elements using survey
30 and research techniques, while for other information it shall obtain
31 data from market participants using submissions consistent with
32 their accounting records. In determining whether to rely upon
33 estimates or participant provided data, the commission shall weigh
34 the burden of compliance upon industry participants and energy
35 consumers against the benefit of participant provided data for the
36 public interest.

37 (4) To the extent it satisfies the information needs of the
38 department, rely on data, to the maximum extent practicable, that
39 is reported to other government agencies or is otherwise available
40 to the department.

(c) Pursuant to the requirements of subdivision (b), the data collection system for electricity and natural gas shall enumerate specific requirements for each category of market participants, including, but not limited to, private market participants, energy service providers, energy service companies, natural gas marketers, electric utility and natural gas utility companies, independent generators, electric transmission entities, natural gas producers, natural gas pipeline operators, importers and exporters of electricity and natural gas, and specialized electric or natural gas system operators. The department may also collect information about consumers' natural gas and electricity use from their voluntary participation in surveys and other research techniques.

(d) Pursuant to the requirements of subdivision (b), the data collection system for nonpetroleum fuels and transportation technologies shall enumerate specific requirements for each category of market participant, including, but not limited to, fuel importers and exporters, fuel distributors and retailers, fuel pipeline operators, natural gas liquid producers, and transportation technology providers. The department may also collect information about consumers' nonpetroleum fuel and transportation technology use from their voluntary participation in surveys and other research techniques.

(e) The department shall collect data for petroleum fuel pursuant to Chapter 4.5 (commencing with Section 25350). The department may also collect information about consumers' petroleum fuel use from consumers' participation in surveys and other research techniques.

SEC. 98. Section 25321 of the Public Resources Code is amended to read:

25321. In order to ensure timely and accurate compliance with the data collection system adopted under Section 25320, the department may use any of the following enforcement measures:

(a) If a person fails to comply with an applicable provision of the data collection system, the department shall notify the person. If, after five working days from being notified of the violation, the person continues to fail to comply, the person shall be subject to a civil penalty, to be imposed by the department after a hearing that complies with constitutional requirements.

(1) The civil penalty shall not be less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) for each

1 category of data the person did not provide and for each day the
2 violation has existed and continues to exist.

3 (2) In the case of a person who willfully makes any false
4 statement, representation, or certification in any record, report,
5 plan, or other document filed with the department, the civil penalty
6 shall not be less than five hundred dollars (\$500) nor more than
7 two thousand dollars (\$2,000) per day applied to each day in the
8 interval between the original due date and the date when corrected
9 information is submitted.

10 (b) For the purposes of this section, “person” means, in addition
11 to the definition contained in Section 25116, any responsible
12 corporate officer.

13 (c) Enforcement measures for petroleum and other fuels shall
14 be those contained in Section 25362.

15 SEC. 99. Section 25322 of the Public Resources Code is
16 amended to read:

17 25322. (a) The data collection system managed pursuant to
18 Section 25320 shall include the following requirements regarding
19 the confidentiality of the information collected by the department:

20 (1) A person required to present information to the commission
21 pursuant to this section may request that specific information be
22 held in confidence. The department shall grant the request in any
23 of the following circumstances:

24 (A) The information is exempt from disclosure under the
25 California Public Records Act, Chapter 3.5 (commencing with
26 Section 6250) of Division 7 of Title 1 of the Government Code.

27 (B) The information satisfies the confidentiality requirements
28 of Article 2 (commencing with Section 2501) of Chapter 7 of
29 Division 2 of Title 20 of the California Code of Regulations, as
30 those regulations existed on January 1, 2002.

31 (C) On the facts of the particular case, the public interest served
32 by not disclosing the information clearly outweighs the public
33 interest served by disclosure of the information.

34 (2) The department may, by regulation, designate certain
35 categories of information as confidential, which removes the
36 obligation to request confidentiality for that information.

37 (3) Any confidential information pertinent to the responsibilities
38 of the department specified in this chapter that is obtained by
39 another state agency, or the California Independent System

1 Operator or its successor, shall be available to the department and
2 shall be treated in a confidential manner.

3 (4) Information presented to or developed by the department
4 and deemed confidential pursuant to this section shall be held in
5 confidence by the department. Confidential information shall be
6 aggregated or masked to the extent necessary to assure
7 confidentiality if public disclosure of the specific information
8 would result in an unfair competitive disadvantage to the person
9 supplying the information.

10 (b) Requests for records of information shall be handled as
11 follows:

12 (1) If the department receives a written request to publicly
13 disclose information that is being held in confidence pursuant to
14 paragraph (1) or (2) of subdivision (a), the department shall provide
15 the person making the request with written justification for the
16 confidential designation and a description of the process to seek
17 disclosure.

18 (2) If the department receives a written request to publicly
19 disclose a disaggregated or unmasked record of information
20 designated as confidential under paragraph (1) or (2) of subdivision
21 (a), notice of the request shall be provided to the person that
22 submitted the record. Upon receipt of the notice, the person that
23 submitted the record may, within five working days of receipt of
24 the notice, provide a written justification of the claim of
25 confidentiality.

26 (3) The department or its designee shall rule on a request made
27 pursuant to paragraph (2) on or before 20 working days after its
28 receipt. The department shall deny the request if the disclosure
29 will result in an unfair competitive disadvantage to the person that
30 submitted the information.

31 (4) If the department grants the request pursuant to paragraph
32 (3), it shall withhold disclosure for a reasonable amount of time,
33 not to exceed 14 working days, to allow the submitter of the
34 information to seek judicial review.

35 (c) Information submitted to the department pursuant to this
36 section is not confidential if the person submitting the information
37 has made it public.

38 (d) The department shall establish, maintain, and use appropriate
39 security practices and procedures to ensure that the information it
40 has designated as confidential, or received with a confidential

1 designation from another government agency, is protected against
2 disclosure other than that authorized using the procedures in
3 subdivision (b). The commission shall incorporate the following
4 elements into its security practices and procedures:

5 (1) Department employees shall sign a confidential data
6 disclosure agreement providing for various remedies, including,
7 but not limited to, fines and termination for wrongful disclosure
8 of confidential information.

9 (2) Department employees, or contract employees of the
10 department, shall only have access to confidential information
11 when it is appropriate to their job assignments and if they have
12 signed a nondisclosure agreement.

13 (3) Computer data systems that hold confidential information
14 shall include sufficient security measures to protect the data from
15 inadvertent or wrongful access by unauthorized department
16 employees and the public.

17 (e) Data collected by the department on petroleum fuels in
18 Section 25320 shall be subject to the confidentiality provisions of
19 Sections 25364 to 25366, inclusive.

20 SEC. 100. Section 25323 of the Public Resources Code is
21 amended to read:

22 25323. This division does not authorize the department in the
23 performance of its analytical, planning, siting, or certification
24 responsibilities to mandate a specified supply plan for any utility.

25 SEC. 101. Section 25324 of the Public Resources Code is
26 amended to read:

27 25324. The department, in consultation with the Public Utilities
28 Commission, the California Independent System Operator,
29 transmission owners, users, and consumers, shall adopt a strategic
30 plan for the state's electric transmission grid using existing
31 resources. The strategic plan shall identify and recommend actions
32 required to implement investments needed to ensure reliability,
33 relieve congestion, and meet future growth in load and generation,
34 including, but not limited to, renewable resources, energy
35 efficiency, and other demand reduction measures. The plan shall
36 be included in the integrated energy policy report adopted on
37 November 1, 2005, pursuant to subdivision (a) of Section 25302.

38 SEC. 102. Section 25354 of the Public Resources Code is
39 amended to read:

1 25354. (a) Each refiner and major marketer shall submit
2 information each month to the department in the form and extent
3 as the department prescribes pursuant to this section. The
4 information shall be submitted within 30 days after the end of each
5 monthly reporting period and shall include the following:

6 (1) Refiners shall report, for each of their refineries, feedstock
7 inputs, origin of petroleum receipts, imports of finished petroleum
8 products and blendstocks, by type, including the source of those
9 imports, exports of finished petroleum products and blendstocks,
10 by type, including the destination of those exports, refinery outputs,
11 refinery stocks, and finished product supply and distribution,
12 including all gasoline sold unbranded by the refiner, blender, or
13 importer.

14 (2) Major marketers shall report on petroleum product receipts
15 and the sources of these receipts, inventories of finished petroleum
16 products and blendstocks, by type, distributions through branded
17 and unbranded distribution networks, and exports of finished
18 petroleum products and blendstocks, by type, from the state.

19 (b) Each major oil producer, refiner, marketer, oil transporter,
20 and oil storer shall annually submit information to the department
21 in the form and extent as the department prescribes pursuant to
22 this section. The information shall be submitted within 30 days
23 after the end of each reporting period, and shall include the
24 following:

25 (1) Major oil transporters shall report on petroleum by reporting
26 the capacities of each major transportation system, the amount
27 transported by each system, and inventories thereof. The
28 department may prescribe rules and regulations that exclude
29 pipeline and transportation modes operated entirely on property
30 owned by major oil transporters from the reporting requirements
31 of this section if the data or information is not needed to fulfill the
32 purposes of this chapter. The provision of the information shall
33 not be construed to increase or decrease any authority the Public
34 Utilities Commission may otherwise have.

35 (2) Major oil storers shall report on storage capacity, inventories,
36 receipts and distributions, and methods of transportation of receipts
37 and distributions.

38 (3) Major oil producers shall, with respect to thermally enhanced
39 oil recovery operations, report annually by designated oil field,
40 the monthly use, as fuel, of crude oil and natural gas.

1 (4) Refiners shall report on facility capacity, and utilization and
2 method of transportation of refinery receipts and distributions.

3 (5) Major oil marketers shall report on facility capacity and
4 methods of transportation of receipts and distributions.

5 (c) Each person required to report pursuant to subdivision (a)
6 shall submit a projection each month of the information to be
7 submitted pursuant to subdivision (a) for the quarter following the
8 month in which the information is submitted to the department.

9 (d) In addition to the data required under subdivision (a), each
10 integrated oil refiner (produces, refines, transports, and markets
11 in interstate commerce) who supplies more than 500 branded retail
12 outlets in California shall submit to the department an annual
13 industry forecast for Petroleum Administration for Defense, District
14 V (covering Arizona, Nevada, Washington, Oregon, California,
15 Alaska, and Hawaii). The forecast shall include the information
16 to be submitted under subdivision (a), and shall be submitted by
17 March 15 of each year. The department may require
18 California-specific forecasts. However, those forecasts shall be
19 required only if the department finds them necessary to carry out
20 its responsibilities.

21 (e) The department may by order or regulation modify the
22 reporting period as to any individual item of information setting
23 forth in the order or regulation its reason for so doing.

24 (f) The department may request additional information as
25 necessary to perform its responsibilities under this chapter.

26 (g) A person required to submit information or data under this
27 chapter, in lieu thereof, may submit a report made to any other
28 governmental agency, if:

29 (1) The alternate report or reports contain all of the information
30 or data required by specific request under this chapter.

31 (2) The person clearly identifies the specific request to which
32 the alternate report is responsive.

33 (h) Each refiner shall submit to the department, within 30 days
34 after the end of each monthly reporting period, all of the following
35 information in such form and extent as the department prescribes:

36 (1) Monthly California weighted average prices and sales
37 volumes of finished leaded regular, unleaded regular, and premium
38 motor gasoline sold through company-operated retail outlets, to
39 other end-users, and to wholesale customers.

(2) Monthly California weighted average prices and sales volumes for residential sales, commercial and institutional sales, industrial sales, sales through company-operated retail outlets, sales to other end-users, and wholesale sales of No. 2 diesel fuel and No. 2 fuel oil.

(3) Monthly California weighted average prices and sales volumes for retail sales and wholesale sales of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel oil with greater than 1 percent sulfur and consumer grade propane.

(i) (1) Beginning the first week after the effective date of the act that added this subdivision, and each week thereafter, an oil refiner, oil producer, petroleum product transporter, petroleum product marketer, petroleum product pipeline operator, and terminal operator, as designated by the department, shall submit a report in the form and extent as the department prescribes pursuant to this section. The department may determine the form and extent necessary by order or by regulation.

(2) A report may include any of the following information:

(A) Receipts and inventory levels of crude oil and petroleum products at each refinery and terminal location.

(B) Amount of gasoline, diesel, jet fuel, blending components, and other petroleum products imported and exported.

(C) Amount of gasoline, diesel, jet fuel, blending components, and other petroleum products transported intrastate by marine vessel.

(D) Amount of crude oil imported, including information identifying the source of the crude oil.

(E) The regional average of invoiced retailer buying price. This subparagraph does not either preclude or augment the current authority of the department to collect additional data under subdivision (f).

(3) This subdivision is intended to clarify the department's existing authority under subdivision (f) to collect specific information. This subdivision does not either preclude or augment the existing authority of the department to collect information.

SEC. 103. Section 25356 of the Public Resources Code is amended to read:

25356. (a) The department, utilizing its own staff and other support staff having expertise and experience in, or with, the

1 petroleum industry, shall gather, analyze, and interpret the
2 information submitted to it pursuant to Section 25354 and other
3 information relating to the supply and price of petroleum products,
4 with particular emphasis on motor vehicle fuels, including, but not
5 limited to, all of the following:

6 (1) The nature, cause, and extent of any petroleum or petroleum
7 products shortage or condition affecting supply.

8 (2) The economic and environmental impacts of any petroleum
9 and petroleum product shortage or condition affecting supply.

10 (3) Petroleum or petroleum product demand and supply
11 forecasting methodologies utilized by the petroleum industry in
12 California.

13 (4) The prices, with particular emphasis on retail motor fuel
14 prices, including sales to unbranded retail markets, and any
15 significant changes in prices charged by the petroleum industry
16 for petroleum or petroleum products sold in California and the
17 reasons for those changes.

18 (5) The profits, both before and after taxes, of the industry as a
19 whole and of major firms within it, including a comparison with
20 other major industry groups and major firms within them as to
21 profits, return on equity and capital, and price-earnings ratio.

22 (6) The emerging trends relating to supply, demand, and
23 conservation of petroleum and petroleum products.

24 (7) The nature and extent of efforts of the petroleum industry
25 to expand refinery capacity and to make acquisitions of additional
26 supplies of petroleum and petroleum products, including activities
27 relative to the exploration, development, and extraction of resources
28 within the state.

29 (8) The development of a petroleum and petroleum products
30 information system in a manner that will enable the state to take
31 action to meet and mitigate any petroleum or petroleum products
32 shortage or condition affecting supply.

33 (b) The department shall analyze the impacts of state and federal
34 policies and regulations upon the supply and pricing of petroleum
35 products.

36 SEC. 104. Section 25357 of the Public Resources Code is
37 amended to read:

38 25357. The department shall obtain and analyze monthly
39 production reports prepared by the State Oil and Gas Supervisor
40 pursuant to Section 3227.

1 SEC. 105. Section 25358 of the Public Resources Code is
2 amended to read:

3 25358. (a) Within 70 days after the end of each preceding
4 quarter of each calendar year, the department shall publish and
5 submit to the Governor and the Legislature a summary, an analysis,
6 and an interpretation of the information submitted to it pursuant
7 to Section 25354 and information reviewed pursuant to Section
8 25357. This report shall be separate from the report submitted
9 pursuant to Section 25302. Any person may submit comments in
10 writing regarding the accuracy or sufficiency of the information
11 submitted.

12 (b) The department shall prepare a biennial assessment of the
13 information provided pursuant to this chapter and shall include its
14 assessment in the biennial fuels report prepared pursuant to Section
15 25310.

16 (c) The department may use reasonable means necessary and
17 available to it to seek and obtain any facts, figures, and other
18 information from any source for the purpose of preparing and
19 providing reports to the Governor and the Legislature. The
20 department shall specifically include in the reports its analysis of
21 any unsuccessful attempts in obtaining information from potential
22 sources, including the lack of cooperation or refusal to provide
23 information.

24 (d) Whenever the department fails to provide any report required
25 pursuant to this section within the specified time, it shall provide
26 to all members of the Legislature, within five days of the specified
27 time, a detailed written explanation of the cause of any delay.

28 SEC. 106. Section 25362 of the Public Resources Code is
29 amended to read:

30 25362. (a) The department shall notify those persons who have
31 failed to timely provide the information specified in Section 25354.
32 If, within five days after being notified of the failure to provide
33 the specified information, the person fails to supply the specified
34 information, the person shall be subject to a civil penalty of not
35 less than five hundred dollars (\$500) nor more than two thousand
36 dollars (\$2,000) per day for each day the submission of information
37 is refused or delayed, unless the person has timely filed objections
38 with the department regarding the information and the department
39 has not yet held a hearing on the matter, or the department has

1 held a hearing and the person has properly submitted the issue to
2 a court of competent jurisdiction for review.

3 (b) A person who willfully makes any false statement,
4 representation, or certification in any record, report, plan, or other
5 document filed with the department shall be subject to a civil
6 penalty not to exceed two thousand dollars (\$2,000).

7 (c) For the purposes of this section, the term “person” shall
8 mean, in addition to the definition contained in Section 25116, any
9 responsible corporate officer.

10 SEC. 107. Section 25364 of the Public Resources Code is
11 amended to read:

12 25364. (a) A person required to present information to the
13 department pursuant to Section 25354 may request that specific
14 information be held in confidence. Information requested to be
15 held in confidence shall be presumed to be confidential.

16 (b) Information presented to the department pursuant to Section
17 25354 shall be held in confidence by the department or aggregated
18 to the extent necessary to assure confidentiality if public disclosure
19 of the specific information or data would result in unfair
20 competitive disadvantage to the person supplying the information.

21 (c) (1) Whenever the department receives a request to publicly
22 disclose unaggregated information, or otherwise proposes to
23 publicly disclose information submitted pursuant to Section 25354,
24 notice of the request or proposal shall be provided to the person
25 submitting the information. The notice shall indicate the form in
26 which the information is to be released. Upon receipt of notice,
27 the person submitting the information shall have 10 working days
28 in which to respond to the notice to justify the claim of
29 confidentiality on each specific item of information covered by
30 the notice on the basis that public disclosure of the specific
31 information would result in unfair competitive disadvantage to the
32 person supplying the information.

33 (2) The department shall consider the respondent’s submittal
34 in determining whether to publicly disclose the information
35 submitted to it to which a claim of confidentiality is made. The
36 department shall issue a written decision that sets forth its reasons
37 for making the determination whether each item of information
38 for which a claim of confidentiality is made shall remain
39 confidential or shall be publicly disclosed.

1 (d) The department shall not make public disclosure of
2 information submitted to it pursuant to Section 25354 within 10
3 working days after the department has issued its written decision
4 required in this section.

5 (e) Information submitted to the department pursuant to Section
6 25354 shall not be deemed confidential if the person submitting
7 the information or data has made it public.

8 (f) With respect to petroleum products and blendstocks reported
9 by type pursuant to paragraph (1) or (2) of subdivision (a) of
10 Section 25354 and information provided pursuant to subdivision
11 (h) or (i) of Section 25354, neither the department nor any
12 employee of the department may do any of the following:

13 (1) Use the information furnished under paragraph (1) or (2) of
14 subdivision (a) of Section 25354 or under subdivision (h) or (i) of
15 Section 25354 for any purpose other than the statistical purposes
16 for which it is supplied.

17 (2) Make any publication whereby the information furnished
18 by any particular establishment or individual under paragraph (1)
19 or (2) of subdivision (a) of Section 25354 or under subdivision (h)
20 or (i) of Section 25354 can be identified.

21 (3) Permit anyone other than department members and
22 employees of the department to examine the individual reports
23 provided under paragraph (1) or (2) of subdivision (a) of Section
24 25354 or under subdivision (h) or (i) of Section 25354.

25 (g) Notwithstanding any other provision of law, the department
26 may disclose confidential information received pursuant to
27 subdivision (a) of Section 25304 or Section 25354 to the State Air
28 Resources Board if the state board agrees to keep the information
29 confidential. With respect to the information it receives, the state
30 board shall be subject to all pertinent provisions of this section.

31 SEC. 108. Section 25366 of the Public Resources Code is
32 amended to read:

33 25366. Any confidential information pertinent to the
34 responsibilities of the department specified in this division that is
35 obtained by another state agency shall be available to the
36 department and shall be treated in a confidential manner.

37 SEC. 109. Section 25400 of the Public Resources Code is
38 amended to read:

39 25400. The department shall conduct an ongoing assessment
40 of the opportunities and constraints presented by all forms of

1 energy. The department shall encourage the balanced use of all
2 sources of energy to meet the state's needs and shall seek to avoid
3 possible undesirable consequences of reliance on a single source
4 of energy.

5 SEC. 110. Section 25401 of the Public Resources Code is
6 amended to read:

7 25401. (a) The department shall continuously carry out studies,
8 research projects, data collection, and other activities required to
9 assess the nature, extent, and distribution of energy resources to
10 meet the needs of the state, including but not limited to, fossil fuels
11 and solar, nuclear, and geothermal energy resources. It shall also
12 carry out studies, technical assessments, research projects, and
13 data collection directed to reducing wasteful, inefficient,
14 unnecessary, or uneconomic uses of energy, including, but not
15 limited to, all of the following:

- 16 (1) Pricing of electricity and other forms of energy.
- 17 (2) Improved building design and insulation.
- 18 (3) Restriction of promotional activities designed to increase
19 the use of electrical energy by consumers.
- 20 (4) Improved appliance efficiency.
- 21 (5) Advances in power generation and transmission technology.
- 22 (6) Comparisons in the efficiencies of alternative methods of
23 energy utilization.

24 (b) The department shall survey pursuant to this section all
25 forms of energy on which to base its recommendations to the
26 Governor and Legislature for elimination of waste or increases in
27 efficiency for sources or uses of energy. The department shall
28 transmit to the Governor and the Legislature, as part of the biennial
29 report specified in Section 25302, recommendations for state policy
30 and actions for the orderly development of all potential sources of
31 energy to meet the state's needs, including, but not limited to,
32 fossil fuels and solar, nuclear, and geothermal energy resources,
33 and to reduce wasteful and inefficient uses of energy.

34 SEC. 111. Section 25401.2 of the Public Resources Code is
35 amended to read:

36 25401.2. (a) As part of the report required by Section 25302,
37 the department shall develop and update an inventory of current
38 and potential cost-effective opportunities in each utility's service
39 territory to improve efficiencies and to help utilities manage loads
40 in all sectors of natural gas and electricity use. The report shall

1 include estimates of the overall magnitude of these resources, load
2 shapes, and the projected costs associated with delivering the
3 various types of energy savings that are identified in the inventory.
4 The report shall also estimate the amount and incremental cost per
5 unit of potential energy efficiency and load management activities.
6 Where applicable, the inventory shall include data on variations
7 in savings and costs associated with particular measures. The report
8 shall take into consideration environmental benefits as developed
9 in related department and Public Utilities Commission proceedings.

10 (b) The department shall develop and maintain the inventory in
11 consultation with electric and gas utilities, the Public Utilities
12 Commission, academic institutions, and other interested parties.

13 (c) The department shall convene a technical advisory group to
14 develop an analytic framework for the inventory, to discuss the
15 level of detail at which the inventory would operate, and to ensure
16 that the inventory is consistent with other demand-side databases.
17 Privately owned electric and gas utilities shall provide financial
18 support, gather data, and provide analysis for activities that the
19 technical advisory group recommends. The technical advisory
20 group shall terminate on January 1, 1993.

21 SEC. 112. Section 25401.5 of the Public Resources Code is
22 amended to read:

23 25401.5. For the purpose of reducing electrical and natural gas
24 energy consumption, the department may develop and disseminate
25 measures that would enhance energy efficiency for single-family
26 residential dwellings that were built prior to the development of
27 the current energy efficiency standards. The measures, if developed
28 and disseminated, shall provide a homeowner with information to
29 improve the energy efficiency of a single-family residential
30 dwelling. The department may comply with this section by posting
31 the measures on the department's Internet Web site or by making
32 the measures available to the public, upon request.

33 SEC. 113. Section 25401.6 of the Public Resources Code is
34 amended to read:

35 25401.6. (a) In its administration of Section 25744, the
36 department shall establish a separate rebate for eligible distributed
37 emerging technologies for affordable housing projects including,
38 but not limited to, projects undertaken pursuant to Section 50052.5,
39 50053, or 50199.4 of the Health and Safety Code. In establishing
40 the rebate, where the department determines that the occupants of

1 the housing shall have individual meters, the department may
2 adjust the amount of the rebate based on the capacity of the system,
3 provided that a system may receive a rebate only up to 75 percent
4 of the total installed costs. The department may establish a
5 reasonable limit on the total amount of funds dedicated for purposes
6 of this section.

7 (b) It is the intent of the Legislature that this section fulfills the
8 purpose of paragraph (5) of subdivision (b) of Section 25744.

9 SEC. 114. Section 25401.7 of the Public Resources Code is
10 amended to read:

11 25401.7. At the time a single-family residential dwelling is
12 sold, a buyer or seller may request a home inspection, as defined
13 in subdivision (a) of Section 7195 of the Business and Professions
14 Code, and a home inspector, as defined in subdivision (d) of
15 Section 7195 of the Business and Professions Code, shall provide,
16 contact information for one or more of the following entities that
17 provide home energy information:

18 (a) A nonprofit organization.

19 (b) A provider to the residential dwelling of electrical service,
20 or gas service, or both.

21 (c) A government agency, including, but not limited to, the
22 department.

23 SEC. 115. Section 25402 of the Public Resources Code is
24 amended to read:

25 25402. The commission, with staff support from the
26 department, shall, after one or more public hearings, do all of the
27 following, in order to reduce the wasteful, uneconomic, inefficient,
28 or unnecessary consumption of energy, including the energy
29 associated with the use of water:

30 (a) (1) Prescribe, by regulation, lighting, insulation climate
31 control system, and other building design and construction
32 standards that increase the efficiency in the use of energy and water
33 for new residential and new nonresidential buildings. The
34 commission shall periodically update the standards and adopt any
35 revision that, in its judgment, it deems necessary. Six months after
36 the commission certifies an energy conservation manual pursuant
37 to subdivision (c) of Section 25402.1, a city, county, city and
38 county, or state agency shall not issue a permit for a building unless
39 the building satisfies the standards prescribed by the commission
40 pursuant to this subdivision or subdivision (b) that are in effect on

1 the date an application for a building permit is filed. Water
2 efficiency standards adopted pursuant to this subdivision shall be
3 demonstrated by the commission to be necessary to save energy.

4 (2) Prior to adopting a water efficiency standard for residential
5 buildings, the Department of Housing and Community
6 Development and the commission shall issue a joint finding
7 whether the standard (A) is equivalent or superior in performance,
8 safety, and for the protection of life, health, and general welfare
9 to standards in Title 24 of the California Code of Regulations and
10 (B) does not unreasonably or unnecessarily impact the ability of
11 Californians to purchase or rent affordable housing, as determined
12 by taking account of the overall benefit derived from water
13 efficiency standards. Nothing in this subdivision in any way
14 reduces the authority of the Department of Housing and
15 Community Development to adopt standards and regulations
16 pursuant to Part 1.5 (commencing with Section 17910) of Division
17 13 of the Health and Safety Code.

18 (3) Water efficiency standards and water conservation design
19 standards adopted pursuant to this subdivision and subdivision (b)
20 shall be consistent with the legislative findings of this division to
21 ensure and maintain a reliable supply of electrical energy and be
22 equivalent to or superior to the performance, safety, and protection
23 of life, health, and general welfare standards contained in Title 24
24 of the California Code of Regulations. The commission shall
25 consult with the members of the coordinating council as established
26 in Section 18926 of the Health and Safety Code in the development
27 of these standards.

28 (b) (1) Prescribe, by regulation, energy and water conservation
29 design standards for new residential and new nonresidential
30 buildings. The standards shall be performance standards and shall
31 be promulgated in terms of energy consumption per gross square
32 foot of floorspace, but may also include devices, systems, and
33 techniques required to conserve energy and water. The commission
34 shall periodically review the standards and adopt any revision that,
35 in its judgment, it deems necessary. A building that satisfies the
36 standards prescribed pursuant to this subdivision need not comply
37 with the standards prescribed pursuant to subdivision (a). Water
38 conservation design standards adopted pursuant to this subdivision
39 shall be demonstrated by the commission to be necessary to save
40 energy. Prior to adopting a water conservation design standard for

1 residential buildings, the Department of Housing and Community
2 Development and the commission shall issue a joint finding
3 whether the standard (A) is equivalent or superior in performance,
4 safety, and for the protection of life, health, and general welfare
5 to standards in the California Building Standards Code and (B)
6 does not unreasonably or unnecessarily impact the ability of
7 Californians to purchase or rent affordable housing, as determined
8 by taking account of the overall benefit derived from the water
9 conservation design standards. Nothing in this subdivision in any
10 way reduces the authority of the Department of Housing and
11 Community Development to adopt standards and regulations
12 pursuant to Part 1.5 (commencing with Section 17910) of Division
13 13 of the Health and Safety Code.

14 (2) In order to increase public participation and improve the
15 efficacy of the standards adopted pursuant to this subdivision and
16 subdivision (a), the commission shall, prior to publication of the
17 notice of proposed action required by Section 18935 of the Health
18 and Safety Code, involve parties who would be subject to the
19 proposed regulations in public meetings regarding the proposed
20 regulations. All potential affected parties shall be provided advance
21 notice of these meetings and given an opportunity to provide
22 written or oral comments. During these public meetings, the
23 commission shall receive and take into consideration input from
24 all parties concerning the parties' design recommendations, cost
25 considerations, and other factors that would affect consumers and
26 California businesses of the proposed standard. The commission
27 shall take into consideration prior to the start of the notice of
28 proposed action any input provided during these public meetings.

29 (3) The standards adopted or revised pursuant to this subdivision
30 and subdivision (a) shall be cost-effective when taken in their
31 entirety and when amortized over the economic life of the structure
32 compared with historic practice. When determining
33 cost-effectiveness, the commission shall consider the value of the
34 water or energy saved, impact on product efficacy for the
35 consumer, and the life cycle cost of complying with the standard.
36 The commission shall consider other relevant factors, as required
37 by Sections 18930 and 18935 of the Health and Safety Code,
38 including, but not limited to, the impact on housing costs, the total
39 statewide costs and benefits of the standard over its lifetime,

1 economic impact on California businesses, and alternative
2 approaches and their associated costs.

3 (c) (1) Prescribe, by regulation, standards for minimum levels
4 of operating efficiency, based on a reasonable use pattern, and
5 may prescribe other cost-effective measures, including incentive
6 programs, fleet averaging, energy and water consumption labeling
7 not preempted by federal labeling law, and consumer education
8 programs, to promote the use of energy and water efficient
9 appliances whose use, as determined by the commission, requires
10 a significant amount of energy or water on a statewide basis. The
11 minimum levels of operating efficiency shall be based on feasible
12 and attainable efficiencies or feasible improved efficiencies that
13 will reduce the energy or water consumption growth rates. The
14 standards shall become effective no sooner than one year after the
15 date of adoption or revision. No new appliance manufactured on
16 or after the effective date of the standards may be sold or offered
17 for sale in the state, unless it is certified by the manufacturer thereof
18 to be in compliance with the standards. The standards shall be
19 drawn so that they do not result in any added total costs for
20 consumers over the designed life of the appliances concerned.

21 In order to increase public participation and improve the efficacy
22 of the standards adopted pursuant to this subdivision, the
23 commission shall, prior to publication of the notice of proposed
24 action required by Section 18935 of the Health and Safety Code,
25 involve parties who would be subject to the proposed regulations
26 in public meetings regarding the proposed regulations. All potential
27 affected parties shall be provided advance notice of these meetings
28 and given an opportunity to provide written or oral comments.
29 During these public meetings, the commission shall receive and
30 take into consideration input from all parties concerning the parties'
31 design recommendations, cost considerations, and other factors
32 that would affect consumers and California businesses of the
33 proposed standard. The commission shall take into consideration
34 prior to the start of the notice of proposed action any input provided
35 during these public meetings.

36 The standards adopted or revised pursuant to this subdivision
37 shall not result in any added total costs for consumers over the
38 designed life of the appliances concerned. When determining
39 cost-effectiveness, the commission shall consider the value of the
40 water or energy saved, impact on product efficacy for the

1 consumer, and the life cycle cost to the consumer of complying
2 with the standard. The commission shall consider other relevant
3 factors, as required by Sections 11346.5 and 11357 of the
4 Government Code, including, but not limited to, the impact on
5 housing costs, the total statewide costs and benefits of the standard
6 over its lifetime, economic impact on California businesses, and
7 alternative approaches and their associated costs.

8 (2) A new appliance, except for any plumbing fitting, regulated
9 under paragraph (1), that is manufactured on or after July 1, 1984,
10 shall not be sold, or offered for sale, in the state, unless the date
11 of the manufacture is permanently displayed in an accessible place
12 on that appliance.

13 (3) During the period of five years after the commission has
14 adopted a standard for a particular appliance under paragraph (1),
15 no increase or decrease in the minimum level of operating
16 efficiency required by the standard for that appliance shall become
17 effective, unless the commission adopts other cost-effective
18 measures for that appliance.

19 (4) Neither the commission nor any other state agency shall
20 take any action to decrease any standard adopted under this
21 subdivision on or before June 30, 1985, prescribing minimum
22 levels of operating efficiency or other energy conservation
23 measures for any appliance, unless the commission finds by a
24 four-fifths vote that a decrease is of benefit to ratepayers, and that
25 there is significant evidence of changed circumstances. Before
26 January 1, 1986, the commission shall not take any action to
27 increase a standard prescribing minimum levels of operating
28 efficiency for any appliance or adopt a new standard under
29 paragraph (1). Before January 1, 1986, any appliance manufacturer
30 doing business in this state shall provide directly, or through an
31 appropriate trade or industry association, information, as specified
32 by the commission after consultation with manufacturers doing
33 business in the state and appropriate trade or industry associations
34 on sales of appliances so that the commission may study the effects
35 of regulations on those sales. These informational requirements
36 shall remain in effect until the information is received. The trade
37 or industry association may submit sales information in an
38 aggregated form in a manner that allows the commission to carry
39 out the purposes of the study. The commission shall treat any sales
40 information of an individual manufacturer as confidential and that

1 information shall not be a public record. The commission shall not
2 request any information that cannot be reasonably produced in the
3 exercise of due diligence by the manufacturer. At least one year
4 prior to the adoption or amendment of a standard for an appliance,
5 the commission shall notify the Legislature of its intent, and the
6 justification to adopt or amend a standard for the appliance.
7 Notwithstanding paragraph (3) and this paragraph, the commission
8 may do any of the following:

9 (A) Increase the minimum level of operating efficiency in an
10 existing standard up to the level of the National Voluntary
11 Consensus Standards 90, adopted by the American Society of
12 Heating, Refrigeration, and Air Conditioning Engineers or, for
13 appliances not covered by that standard, up to the level established
14 in a similar nationwide consensus standard.

15 (B) Change the measure or rating of efficiency of any standard,
16 if the minimum level of operating efficiency remains substantially
17 the same.

18 (C) Adjust the minimum level of operating efficiency in an
19 existing standard in order to reflect changes in test procedures that
20 the standards require manufacturers to use in certifying compliance,
21 if the minimum level of operating efficiency remains substantially
22 the same.

23 (D) Readopt a standard preempted, enjoined, or otherwise found
24 legally defective by an administrative agency or a lower court, if
25 final legal action determines that the standard is valid and if the
26 standard that is readopted is not more stringent than the standard
27 that was found to be defective or preempted.

28 (E) Adopt or amend any existing or new standard at any level
29 of operating efficiency, if the Governor has declared an energy
30 emergency as described in Section 8558 of the Government Code.

31 (5) Notwithstanding paragraph (4), the commission may adopt
32 standards pursuant to Commission Order No. 84-0111-1, on or
33 before June 30, 1985.

34 (d) Recommend minimum standards of efficiency for the
35 operation of any new facility at a particular site that are technically
36 and economically feasible. No site and related facility shall be
37 certified pursuant to Chapter 6 (commencing with Section 25500),
38 unless the applicant certifies that standards recommended by the
39 commission have been considered, which certification shall include

1 a statement specifying the extent to which conformance with the
2 recommended standards will be achieved.

3 Whenever this section and Chapter 11.5 (commencing with
4 Section 19878) of Part 3 of Division 13 of the Health and Safety
5 Code are in conflict, the commission shall be governed by that
6 chapter of the Health and Safety Code to the extent of the conflict.

7 (e) The commission shall do all of the following:

8 (1) Not later than January 1, 2004, amend any regulations in
9 effect on January 1, 2003, pertaining to the energy efficiency
10 standards for residential clothes washers to require that residential
11 clothes washers manufactured on or after January 1, 2007, be at
12 least as water efficient as commercial clothes washers.

13 (2) Not later than April 1, 2004, petition the federal Department
14 of Energy for an exemption from any relevant federal regulations
15 governing energy efficiency standards that are applicable to
16 residential clothes washers.

17 (3) Not later than January 1, 2005, report to the Legislature on
18 its progress with respect to the requirements of paragraphs (1) and
19 (2).

20 SEC. 116. Section 25402.1 of the Public Resources Code is
21 amended to read:

22 25402.1. In order to implement the requirements of subdivisions
23 (a) and (b) of Section 25402, the commission and the department
24 shall do all of the following:

25 (a) Develop a public domain computer program that will enable
26 contractors, builders, architects, engineers, and government
27 officials to estimate the energy consumed by residential and
28 nonresidential buildings. The department may charge a fee for the
29 use of the program, which fee shall be based upon the actual cost
30 of the program, including any computer costs.

31 (b) Establish a formal process for certification of compliance
32 options for new products, materials, and calculation methods that
33 provides for adequate technical and public review to ensure
34 accurate, equitable, and timely evaluation of certification
35 applications. Proponents filing applications for new products,
36 materials, and calculation methods shall provide all information
37 needed to evaluate the application that is required by the
38 commission. The department shall publish annually the results of
39 its certification decisions and instructions to users and local
40 building officials concerning requirements for showing compliance

1 with the building standards for new products, materials, or
2 calculation methods. The department may charge and collect a
3 reasonable fee from applicants to cover the costs under this
4 subdivision. Any funds received by the department for purposes
5 of this subdivision shall be deposited in the Energy Resources
6 Programs Account and, notwithstanding Section 13340 of the
7 Government Code, are continuously appropriated to the department
8 for the purposes of this subdivision. Any unencumbered portion
9 of funds collected as a fee for an application remaining in the
10 Energy Resources Programs Account after completion of the
11 certification process for that application shall be returned to the
12 applicant within a reasonable period of time.

13 (c) Include a prescriptive method of complying with the
14 standards, including design aids such as a manual, sample
15 calculations, and model structural designs.

16 (d) Conduct a pilot project of field testing of actual residential
17 buildings to calibrate and identify potential needed changes in the
18 modeling assumptions to increase the accuracy of the public
19 domain computer program specified in subdivision (a) and to
20 evaluate the impacts of the standards, including, but not limited
21 to, the energy savings, cost effectiveness, and the effects on indoor
22 air quality. The pilot project shall be conducted pursuant to a
23 contract entered into by the department. The department shall
24 consult with the participants designated pursuant to Section 9202
25 of the Public Utilities Code to seek funding and support for field
26 monitoring in each public utility service territory, with the
27 University of California to take advantage of its extensive building
28 monitoring expertise, and with the California Building Industry
29 Association to coordinate the involvement of builders and
30 developers throughout the state. The pilot project shall include
31 periodic public workshops to develop plans and review progress.
32 The department shall prepare and submit a report to the Legislature
33 on progress and initial findings not later than December 31, 1988,
34 and a final report on the results of the pilot project on residential
35 buildings not later than June 30, 1990. The report shall include
36 recommendations regarding the need and feasibility of conducting
37 further monitoring of actual residential and nonresidential
38 buildings. The report shall also identify any revisions to the public
39 domain computer program and energy conservation standards if
40 the pilot project determines that revisions are appropriate.

(e) Certify, not later than 180 days after approval of the standards by the California Building Standards Commission, an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the department.

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information that the department finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(f) The department shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The department shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.

(g) Subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department, unless a

1 review by the building department of the plans for the proposed
2 residential or nonresidential building contains detailed energy
3 system specifications and confirms that the building satisfies the
4 minimum standards established pursuant to subdivision (a) or (b)
5 of Section 25402 and this section applicable to the building.

6 (2) Where there is no local building department, the department
7 shall enforce subdivisions (a) and (b) of Section 25402 and this
8 section.

9 (3) If a local building department fails to enforce subdivisions
10 (a) and (b) of Section 25402 and this section or any other provision
11 of this chapter or standard adopted pursuant thereto, the department
12 may provide enforcement after furnishing 10 days' written notice
13 to the local building department.

14 (4) A city, county, or city and county may, by ordinance or
15 resolution, prescribe a schedule of fees sufficient to pay the costs
16 incurred in the enforcement of subdivisions (a) and (b) of Section
17 25402 and this section. The department may establish a schedule
18 of fees sufficient to pay the costs incurred by that enforcement.

19 (5) Construction of a state building shall not commence until
20 the Department of General Services or the state agency that
21 otherwise has jurisdiction over the property reviews the plans for
22 the proposed building and certifies that the plans satisfy the
23 minimum standards established pursuant to Chapter 2.8
24 (commencing with Section 15814.30) of Part 10b of Division 3 of
25 Title 2 of the Government Code, Section 25402, and this section
26 which are applicable to the building.

27 (h) Subdivisions (a) and (b) of Section 25402 and this section
28 shall apply only to new residential and nonresidential buildings
29 on which actual site preparation and construction have not
30 commenced prior to the effective date of rules and regulations
31 adopted pursuant to those sections that are applicable to those
32 buildings. Nothing in those sections shall prohibit either of the
33 following:

34 (1) The enforcement of state or local energy conservation or
35 energy insulation standards, adopted prior to the effective date of
36 rules and regulations adopted pursuant to subdivisions (a) and (b)
37 of Section 25402 and this section with regard to residential and
38 nonresidential buildings on which actual site preparation and
39 construction have commenced prior to that date.

1 (2) The enforcement of city or county energy conservation or
2 energy insulation standards, whenever adopted, with regard to
3 residential and nonresidential buildings on which actual site
4 preparation and construction have not commenced prior to the
5 effective date of rules and regulations adopted pursuant to
6 subdivisions (a) and (b) of Section 25402 and this section, if the
7 city or county files the basis of its determination that the standards
8 are cost effective with the department and the commission finds
9 that the standards will require the diminution of energy
10 consumption levels permitted by the rules and regulations adopted
11 pursuant to those sections. If, after two or more years after the
12 filing with the department of the determination that those standards
13 are cost effective, there has been a substantial change in the factual
14 circumstances affecting the determination, upon application by
15 any interested party, the city or county shall update and file a new
16 basis of its determination that the standards are cost effective. The
17 determination that the standards are cost effective shall be adopted
18 by the governing body of the city or county at a public meeting.
19 If, at the meeting on the matter, the governing body determines
20 that the standards are no longer cost effective, the standards shall,
21 as of that date, be unenforceable and no building permit or other
22 entitlement shall be denied based on the noncompliance with the
23 standards.

24 (i) The department may exempt from the requirements of this
25 section and of any regulations adopted pursuant thereto any
26 proposed building for which compliance would be impossible
27 without substantial delays and increases in cost of construction, if
28 the department finds that substantial funds have been expended in
29 good faith on planning, designing, architecture or engineering prior
30 to the date of adoption of the regulations.

31 (j) If a dispute arises between an applicant for a building permit,
32 or the state pursuant to paragraph (5) of subdivision (g), and the
33 building department regarding interpretation of Section 25402 or
34 the regulations adopted pursuant thereto, either party may submit
35 the dispute to the commission for resolution. The commission's
36 determination of the matter shall be binding on the parties.

37 (k) Nothing in Section 25130, 25131, or 25402, or in this section
38 prevents enforcement of any regulation adopted pursuant to this
39 chapter, or Chapter 11.5 (commencing with Section 19878) of Part

1 3 of Division 13 of the Health and Safety Code as they existed
2 prior to September 16, 1977.

3 SEC. 117. Section 25402.3 of the Public Resources Code is
4 amended to read:

5 25402.3. For purposes of subdivision (e) of Section 25402.1,
6 the department shall contract with California building officials to
7 establish two regional training centers to provide continuing
8 education for local building officials and enforcement personnel
9 as follows:

10 (a) One site shall be located in northern California and one site
11 shall be located in southern California to serve the needs of the
12 respective regions.

13 (b) The centers shall provide training on a monthly basis to
14 ensure a uniform understanding and implementation of the energy
15 efficient building standards. Existing resources shall be used as
16 much as possible by utilizing members of the building official
17 community in training activities.

18 (c) The centers shall provide similar training sessions, in the
19 form of workshops given in designated rural areas, to ensure that
20 adequate training is available throughout the state. The workshops
21 shall meet the following requirements:

22 (1) A minimum of two workshops in northern California and
23 two workshops in southern California shall be offered each year.

24 (2) The sites shall be selected to ensure the greatest number of
25 participants will be served in areas of greatest need to decrease
26 the financial burden on small rural or isolated local government
27 agencies that would not be able to travel to the regional training
28 centers for instruction.

29 SEC. 118. Section 25402.6 of the Public Resources Code is
30 amended to read:

31 25402.6. The department shall investigate options and develop
32 a plan to decrease wasteful peakload energy consumption in
33 existing residential and nonresidential buildings. On or before
34 January 1, 2004, the department shall report its findings to the
35 Legislature, including, but not limited to, any changes in law
36 necessary to implement the plan to decrease wasteful peakload
37 energy consumption in existing residential and nonresidential
38 buildings.

39 SEC. 119. Section 25402.9 of the Public Resources Code is
40 amended to read:

1 25402.9. (a) On or before July 1, 1996, the department shall
2 develop, adopt, and publish an informational booklet to educate
3 and inform homeowners, rental property owners, renters, sellers,
4 brokers, and the general public about the statewide home energy
5 rating program adopted pursuant to Section 25942.

6 (b) In the development of the booklet, the department shall
7 consult with representatives of the Department of Real Estate, the
8 Department of Housing and Community Development, the Public
9 Utilities Commission, investor-owned and municipal utilities,
10 cities and counties, real estate licensees, home builders, mortgage
11 lenders, home appraisers and inspectors, home energy rating
12 organizations, contractors who provide home energy services,
13 consumer groups, and environmental groups.

14 (c) The department shall charge a fee for the informational
15 booklet to recover its costs under subdivision (a).

16 SEC. 120. Section 25403 of the Public Resources Code is
17 amended to read:

18 25403. The department shall submit to the Public Utilities
19 Commission and to any publicly owned electric utility,
20 recommendations designed to reduce wasteful, unnecessary, or
21 uneconomic energy consumption resulting from practices
22 including, but not limited to, differential rate structures,
23 cost-of-service allocations, the disallowance of a business expense
24 of advertising or promotional activities that encourage the use of
25 electrical power, peakload pricing, and other pricing measures.
26 The Public Utilities Commission or publicly owned electric utility
27 shall review and consider the recommendations and shall, within
28 six months after the date it receives them, as prescribed by this
29 section, report to the Governor and the Legislature its actions and
30 reasons therefor with respect to the recommendations.

31 SEC. 121. Section 25403.5 of the Public Resources Code is
32 amended to read:

33 25403.5. (a) The department shall, by July 1, 1978, adopt
34 standards by regulation for a program of electrical load
35 management for each utility service area. In adopting the standards,
36 the department shall consider, but need not be limited to, the
37 following load management techniques:

38 (1) Adjustments in rate structure to encourage use of electrical
39 energy at off-peak hours or to encourage control of daily electrical
40 load. Compliance with those adjustments in rate structure shall be

1 subject to the approval of the Public Utilities Commission in a
2 proceeding to change rates or service.

3 (2) End use storage systems which store energy during off-peak
4 periods for use during peak periods.

5 (3) Mechanical and automatic devices and systems for the
6 control of daily and seasonal peakloads.

7 (b) (1) The standards shall be cost-effective when compared
8 with the costs for new electrical capacity, and the department shall
9 find them to be technologically feasible. Any expense or any capital
10 investment required of a utility by the standards shall be an
11 allowable expense or an allowable item in the utility rate base and
12 shall be treated by the Public Utilities Commission as allowable
13 in a rate proceeding.

14 (2) The department may determine that one or more of the load
15 management techniques are infeasible and may delay their
16 adoption. If the department determines that any techniques are
17 infeasible to implement, it shall make a finding in each instance
18 stating the grounds upon which the determination was made and
19 the actions it intends to take to remove the impediments to
20 implementation.

21 (c) The department may also grant, upon application by a utility,
22 an exemption from the standards or a delay in implementation.
23 The grant of an exemption or delay shall be accompanied by a
24 statement of findings by the department indicating the grounds for
25 the exemption or delay. Exemption or delay shall be granted only
26 upon a showing of extreme hardship, technological infeasibility,
27 lack of cost-effectiveness, or reduced system reliability and
28 efficiency.

29 SEC. 122. Section 25403.8 of the Public Resources Code is
30 amended to read:

31 25403.8. (a) The department shall develop and implement a
32 program to provide battery backup power for those official traffic
33 control signals, operated by a city, county, or city and county, that
34 the department, in consultation with cities, counties, or cities and
35 counties, determines to be high priority traffic control signals.

36 (b) Based on traffic factors considered by cities, counties, or
37 cities and counties, including, but not limited to, traffic volume,
38 number of accidents, and presence of children, the department
39 shall determine a priority schedule for the installation of battery
40 backup power for traffic control systems. The department shall

1 give priority to a city, county, or city and county that did not
2 receive a grant from the State of California for the installation of
3 light-emitting diode traffic control signals.

4 (c) The department shall also develop or adopt the necessary
5 technical criteria as to wiring, circuitry, and recharging units for
6 traffic control signals. Only light-emitting diodes (LED) traffic
7 control signals are eligible for battery backup power for the full
8 operation of the traffic control signal or a flashing red mode. A
9 city, county, or city and county may apply for a matching grant
10 for battery backup power for traffic control signals retrofitted with
11 light-emitting diodes.

12 (d) Based on the criteria described in subdivision (c), the
13 department shall provide matching grants to cities, counties, and
14 cities and counties for backup battery systems described in this
15 section in accordance with the priority schedule established by the
16 department pursuant to subdivision (b). The department shall
17 provide 70 percent of the funds for a battery backup system, and
18 the city, county, or city and county shall provide 30 percent.

19 (e) If a city, county, or city and county has installed a backup
20 battery system for LED traffic control signals between January 1,
21 2001, and October 1, 2001, the department may reimburse the city,
22 county, or city and county for up to 30 percent of the cost incurred
23 for the backup battery system installation. However, the department
24 may not spend more than one million five hundred thousand dollars
25 (\$1,500,000) for reimbursements pursuant to this subdivision.

26 SEC. 123. Section 25404 of the Public Resources Code is
27 amended to read:

28 25404. The department shall cooperate with the Office of
29 Planning and Research, the Resources Agency, and other interested
30 parties in developing procedures to ensure that mitigation measures
31 to minimize wasteful, inefficient, and unnecessary consumption
32 of energy are included in all environmental impact reports required
33 on local projects as specified in Section 21151.

34 SEC. 124. Section 25410.5 of the Public Resources Code is
35 amended to read:

36 25410.5. The Legislature finds and declares all of the following:

37 (a) Energy costs are frequently the second largest discretionary
38 expense in a local government's budget. According to the
39 department, most public institutions could reduce their energy
40 costs by 20 to 30 percent.

1 (b) A variety of energy conservation measures are available to
2 local governments. These measures are highly cost-effective, often
3 providing a payback on the initial investment in three years or less.

4 (c) Many local governments lack energy management expertise
5 and are often unaware of their high energy costs or the
6 opportunities to reduce those costs.

7 (d) Local governments that desire to reduce their energy costs
8 through energy conservation and efficiency measures often lack
9 available funding.

10 (e) Since 1980, the Energy Conservation Assistance Account
11 has provided \$110 million in loans, through a revolving loan
12 account, to 600 schools, hospitals, and local governments. The
13 energy conservation projects funded by the account save
14 approximately \$35 million annually in energy costs.

15 (f) Local governments and public institutions need assistance
16 in all aspects of energy efficiency improvements, including, but
17 not limited to, project identification, project development and
18 implementation, evaluation of project proposals and options,
19 operations and maintenance, and troubleshooting of problem
20 projects.

21 SEC. 125. Section 25410.6 of the Public Resources Code is
22 amended to read:

23 25410.6. (a) It is the intent of the Legislature that the
24 department shall administer the State Energy Conservation
25 Assistance Account to provide grants and loans to local
26 governments and public institutions to maximize energy use
27 savings, including, but not limited to, technical assistance,
28 demonstrations, and identification and implementation of
29 cost-effective energy efficiency measures and programs in existing
30 and planned buildings or facilities.

31 (b) It is further the intent of the Legislature that the department
32 seek the assistance of utility companies in providing energy audits
33 for local governments and public institutions and in publicizing
34 the availability of State Energy Conservation Assistance Account
35 funds to qualified entities.

36 SEC. 126. Section 25411 of the Public Resources Code is
37 amended to read:

38 25411. As used in this chapter:

39 (a) "Allocation" means a loan of funds by the commission
40 pursuant to the procedures specified in this chapter.

1 (b) “Building” means any existing or planned structure that
2 includes a heating or cooling system, or both. Additions to an
3 original building shall be considered part of that building rather
4 than a separate building.

5 (c) “Eligible institution” means a school, hospital, public care
6 institution, a unit of local government, or a joint powers authority.

7 (d) “Energy audit” means a determination of the energy
8 consumption characteristics of a building or facility that does all
9 of the following:

10 (1) Identifies the type, size, and energy use level of the building
11 or facility and the major energy using systems of the building or
12 facility.

13 (2) Determines appropriate energy conservation maintenance
14 and operating procedures.

15 (3) Indicates the need, if any, for the acquisition and installation
16 of energy conservation measures.

17 (e) “Energy conservation maintenance and operating procedure”
18 means a modification or modifications in the maintenance and
19 operations of a building or facility, and any installations therein
20 (based on the use time schedule of the building or facility), which
21 are designed to reduce energy consumption or peak load in the
22 building or facility and that require no significant expenditure of
23 funds.

24 (f) “Energy conservation measure” means an installation or
25 modification of an installation in a building or facility that is
26 primarily intended to reduce energy consumption, reduce peak
27 load, or allow the use of a more desirable energy source.

28 (g) “Energy conservation project” means an undertaking to
29 acquire and to install one or more energy conservation measures
30 in a building or facility, and technical assistance in connection
31 with that undertaking.

32 (h) “Facility” means an existing or planned energy using system
33 of an eligible institution whether or not housed in a building.

34 (i) “Hospital” means a public or nonprofit institution that is both
35 of the following:

36 (1) A general hospital, tuberculosis hospital, or any other type
37 of hospital, other than a hospital furnishing primarily domiciliary
38 care.

39 (2) Duly authorized to provide hospital services under the laws
40 of this state.

(j) “Hospital building” means a building housing a hospital and related operations, including laboratories, laundries, outpatient departments, nurses’ home and training activities, and central service operations in connection with a hospital, and also includes a building housing education or training activities for health professions personnel operated as an integral part of a hospital.

(k) “Joint powers authority” means an entity consisting of any combination of a school, hospital, public care institution, or unit of a local government formed for the joint exercise of any power.

(l) “Local government building” means a building that is primarily occupied by offices or agencies of a unit of local government or by a public care institution.

(m) “Project” means a purpose for which an allocation may be requested and made under this chapter. Those purposes shall include energy audits, energy conservation and operating procedures, and energy conservation measures in existing and planned buildings and facilities, energy conservation projects, and technical assistance programs.

(n) “Public care institution” means a public or nonprofit institution that owns:

(1) A long-term care institution.

(2) A rehabilitation institution.

(3) An institution for the provision of public health services, including related publicly owned services such as laboratories, clinics, and administrative offices operated in connection with the institution.

(4) A residential child care center.

(o) “Public or nonprofit institution” means an institution owned and operated by:

(1) The state, a political subdivision of the state, or an agency or instrumentality of either.

(2) An organization exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

(3) In the case of public care institutions, an organization also exempt from income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

(p) “School” means a public or nonprofit institution, including a local educational agency, which:

1 (1) Provides, and is legally authorized to provide, elementary
2 education or secondary education, or both, on a day or residential
3 basis.

4 (2) Provides, and is legally authorized to provide, a program of
5 education beyond secondary education, on a day or residential
6 basis and meets all of the following requirements:

7 (A) Admits as students only persons having a certificate of
8 graduation from a school providing secondary education, or the
9 recognized equivalent of that certificate.

10 (B) Is accredited by a nationally recognized accrediting agency
11 or association.

12 (C) Provides an education program for which it awards a
13 bachelor's degree or higher degree or provides not less than a
14 two-year program that is acceptable for full credit toward a degree
15 at any institution that meets the requirements of subparagraphs
16 (A) and (B) and provides that program.

17 (3) Provides not less than a one-year program of training to
18 prepare students for gainful employment in a recognized occupation
19 and that meets the provisions of (2).

20 (q) "School building" means a building housing classrooms,
21 laboratories, dormitories, athletic facilities, or related facilities
22 operated in connection with a school.

23 (r) "Technical assistance costs" means costs incurred for the
24 use of existing personnel or the temporary employment of other
25 qualified personnel, or both, necessary for providing technical
26 assistance.

27 (s) "Technical assistance program" means assistance to eligible
28 institutions and includes, but is not limited to:

29 (1) Conducting specialized studies identifying and specifying
30 energy or peak load savings and related cost savings that are likely
31 to be realized as a result of:

32 (A) Modification of maintenance and operating procedures in
33 a building or facility, in addition to those modifications
34 implemented after the preliminary energy audit, or

35 (B) Acquisition and installation of one or more specified energy
36 conservation measures in the building or facility, or as a result of
37 both.

38 (C) New construction activities.

1 (2) Planning of specific remodeling, renovation, repair,
2 replacement, or insulation projects related to the installation of
3 energy conservation measures in the building or facility.

4 (3) Developing and evaluating alternative project
5 implementation methods and proposals.

6 (t) “Unit of local government” means a unit of general or special
7 purpose government below the state.

8 SEC. 127. Section 25412 of the Public Resources Code is
9 amended to read:

10 25412. (a) Any eligible institution may submit an application
11 to the department for an allocation for the purpose of financing all
12 or a portion of the costs incurred in implementing a project. The
13 application shall be in the form and contain the information
14 incurred in implementing a project that the department shall
15 prescribe.

16 (b) An application may be for the purpose of financing the
17 eligible institution’s share of costs that are to be jointly funded
18 through a state, local, or federal-local program.

19 SEC. 128. Section 25413 of the Public Resources Code is
20 amended to read:

21 25413. Applications may be approved by the department only
22 in those instances where the eligible institution has furnished
23 information satisfactory to the department that the costs of the
24 project, plus interest on state funds loaned, calculated in accordance
25 with Section 25415, will be recovered through savings in the cost
26 of energy to the institution during the repayment period of the
27 allocation.

28 The savings shall be calculated in a manner prescribed by the
29 department.

30 SEC. 129. Section 25414 of the Public Resources Code is
31 amended to read:

32 25414. Annually for three years after completion of the energy
33 conservation project, each eligible institution that has received an
34 allocation pursuant to this chapter shall compute the cost of the
35 energy saved as a result of implementing a project funded by that
36 allocation. That cost shall be calculated in a manner prescribed by
37 the department.

38 SEC. 130. Section 25415 of the Public Resources Code is
39 amended to read:

1 25415. (a) An eligible institution to which an allocation has
2 been made under this chapter shall repay the principal amount of
3 the allocation, plus interest, in not more than 30 equal semiannual
4 payments, as determined by the department. Loan repayments shall
5 be made in accordance with a schedule established by the
6 department. The repayment period may not exceed the life of the
7 equipment, as determined by the department or the lease term of
8 the building or facility in which the energy conservation measures
9 will be installed.

10 (b) Notwithstanding any other provision of law, the department
11 shall, unless it determines that the purposes of this chapter would
12 be better served by establishing an alternative interest rate schedule,
13 periodically set interest rates on the loans based on surveys of
14 existing financial markets and at rates not less than 3 percent per
15 annum.

16 (c) The governing body of each eligible institution shall annually
17 budget an amount at least sufficient to make the semiannual
18 payments required in this section. The amount shall not be raised
19 by the levy of additional taxes but shall instead be obtained by a
20 savings in energy costs or other sources.

21 SEC. 131. Section 25416 of the Public Resources Code is
22 amended to read:

23 25416. (a) The State Energy Conservation Assistance Account
24 is hereby created in the General Fund. Notwithstanding Section
25 13340 of the Government Code, the account is continuously
26 appropriated to the department without regard to fiscal year.

27 (b) The money in the account shall consist of all money
28 authorized or required to be deposited in the account by the
29 Legislature and all money received by the department pursuant to
30 Sections 25414 and 25415.

31 (c) The money in the account shall be disbursed by the
32 Controller for the purposes of this chapter as authorized by the
33 department.

34 (d) The department may contract and provide grants for services
35 to be performed for eligible institutions. Services may include, but
36 are not limited to, feasibility analysis, project design, field
37 assistance, and operation and training. The amount expended for
38 those services may not exceed 10 percent of the balance of the
39 account as determined by the department on July 1 of each year.

1 (e) The department may make grants for innovative projects
2 and programs. The amount expended for grants may not exceed 5
3 percent of the annual appropriation from the account.

4 (f) The department may charge a fee for the services provided
5 under subdivision (d).

6 (g) Notwithstanding any other provision of law, the Controller
7 may use the State Energy Conservation Assistance Account for
8 loans to the General Fund as provided in Sections 16310 and 16381
9 of the Government Code.

10 SEC. 132. Section 25417 of the Public Resources Code is
11 amended to read:

12 25417. (a) An allocation made pursuant to this chapter shall
13 be used for the purposes specified in an approved application.

14 (b) In the event that the department determines that an allocation
15 has been expended for purposes other than those specified in an
16 approved application, it shall immediately request the return of
17 the full amount of the allocation. The eligible institution shall
18 immediately comply with this request.

19 SEC. 133. Section 25417.5 of the Public Resources Code is
20 amended to read:

21 25417.5. (a) In furtherance of the purposes of the department
22 as set forth in this chapter, the department has the power and
23 authority to do all of the following:

24 (1) Borrow money, for the purpose of obtaining funds to make
25 loans pursuant to this chapter, from the California Economic
26 Development Financing Authority and the California Infrastructure
27 and Economic Development Bank from the proceeds of revenue
28 bonds issued by any of those agencies.

29 (2) Pledge, to provide collateral in connection with the
30 borrowing of money pursuant to paragraph (1), loans made
31 pursuant to this chapter or Chapter 5.4 (commencing with Section
32 25440), or the principal and interest payments on loans made
33 pursuant to this chapter or Chapter 5.4 (commencing with Section
34 25440).

35 (3) Sell loans made pursuant to this chapter or Chapter 5.4
36 (commencing with Section 25440), at prices determined in the
37 sole discretion of the department, to the California Economic
38 Development Financing Authority and the California Infrastructure
39 and Economic Development Bank to raise funds to enable the
40 department to make loans to eligible institutions.

1 (4) Enter into loan agreements or other contracts necessary or
2 appropriate in connection with the pledge or sale of loans pursuant
3 to paragraph (2) or (3), or the borrowing of money as provided in
4 paragraph (1), containing any provisions that may be required by
5 the California Economic Development Financing Authority, the
6 California Infrastructure and Economic Development Bank, or the
7 department as conditions of issuing bonds to fund loans to, or the
8 purchase of loans from, the department.

9 (b) In connection with the pledging of loans, or of the principal
10 and interest payment on loans, pursuant to paragraph (2) of
11 subdivision (a), the department may enter into pledge agreements
12 setting forth the terms and conditions pursuant to which the
13 department is pledging loans or the principal and interest payment
14 on loans, and may also agree to have the loans held by bond
15 trustees or by independent collateral or escrow agents and to direct
16 that payments received on those loans be paid to those trustee,
17 collateral, or escrow agents.

18 (c) The department may employ financial consultants, legal
19 advisers, accountants, and other service providers, as may be
20 necessary in its judgment, in connection with activities pursuant
21 to this chapter.

22 (d) Notwithstanding any other provision of law, this chapter
23 provides a complete, separate, additional, and alternative method
24 for implementing the measures authorized by this chapter,
25 including the authority of the eligible institutions or local
26 jurisdictions to have borrowed and to borrow in the future pursuant
27 to loans made pursuant to this chapter or Chapter 5.4 (commencing
28 with Section 25440), and is supplemental and additional to powers
29 conferred by other laws.

30 SEC. 134. Section 25419 of the Public Resources Code is
31 amended to read:

32 25419. In addition to the powers specifically granted to the
33 department by the other provisions of this chapter, the department
34 shall have the following powers:

35 (a) To establish qualifications and priorities, consistent with the
36 objectives of this chapter, for making allocations.

37 (b) To establish procedures and policies as may be necessary
38 for the administration of this chapter.

39 SEC. 135. Section 25420 of the Public Resources Code is
40 amended to read:

1 25420. The department may expend from the State Energy
2 Conservation Assistance Account an amount to pay for the actual
3 administrative costs incurred by the department pursuant to this
4 chapter. This amount shall not exceed 5 percent of the total
5 appropriation, to be held in reserve and used to defray costs
6 incurred by the department for allocations made by the department
7 pursuant to this chapter.

8 SEC. 136. Section 25421 of the Public Resources Code is
9 amended to read:

10 25421. (a) Except as provided in subdivision (b), this chapter
11 shall remain in effect only until January 1, 2026, and as of that
12 date is repealed, unless a later enacted statute, which is enacted
13 before January 1, 2026, deletes or extends that date.

14 (b) All loans outstanding as of January 1, 2026, shall continue
15 to be repaid on a semiannual basis, as specified in Section 25415,
16 until paid in full. All unexpended funds in the State Energy
17 Conservation Assistance Account on January 1, 2026, and
18 thereafter, except to the extent those funds are encumbered pursuant
19 to Section 25417.5, shall revert to the General Fund.

20 SEC. 137. Section 25426 of the Public Resources Code is
21 amended to read:

22 25426. As used in this article, the following terms have the
23 following meanings:

24 (a) “Commercial refrigeration” means a refrigerator that is not
25 a federally regulated consumer product.

26 (b) “Energy-efficient model” means an appliance that meets the
27 efficiency standards of the United States Department of Energy
28 that are effective on and after July 1, 2001, and, if applicable,
29 products certified as energy efficient zone heating products by the
30 commission.

31 (c) “Small business” means a small business as defined in
32 paragraph (1) of subdivision (d) of Section 14837 of the
33 Government Code.

34 SEC. 138. Section 25433.5 of the Public Resources Code is
35 amended to read:

36 25433.5. (a) The department, in consultation with the Public
37 Utilities Commission, shall do both of the following for the purpose
38 of full or partial funding of an eligible construction or retrofit
39 project:

1 (1) Establish a grant program to provide financial assistance to
2 eligible low-income individuals.

3 (2) Establish a 2-percent interest per annum loan program to
4 provide financial assistance to a small business owner, residential
5 property owner, or individual who is not eligible for a grant
6 pursuant to paragraph (1). The loans shall be available to a small
7 business owner who has a gross annual income that does not exceed
8 one hundred thousand dollars (\$100,000) or to an individual or
9 residential property owner who has a gross annual household
10 income that does not exceed one hundred thousand dollars
11 (\$100,000).

12 (b) (1) The department shall use the design guidelines adopted
13 pursuant to paragraph (2) of subdivision (f) of Section 14 of
14 Chapter 8 of the Statutes of the First Extraordinary Session of 2001
15 as standards to determine eligible energy-efficiency projects.

16 (2) The award of a grant pursuant to this section is subject to
17 appeal to the department upon a showing that the department
18 applied factors, other than those adopted by the department, in
19 making the award.

20 (3) The grant or loan recipient shall commit to using the grant
21 or loan for the purpose for which the grant or loan was awarded.

22 (4) Any action taken by an applicant to apply for, or to become
23 or remain eligible to receive, a grant award, including satisfying
24 conditions specified by the department, does not constitute the
25 rendering of goods, services, or a direct benefit to the department.

26 (5) The amount of any grant awarded pursuant to this article to
27 a low-income individual does not constitute income for purposes
28 of calculating the recipient's gross income for the tax year during
29 which the grant is received.

30 SEC. 139. Section 25434 of the Public Resources Code is
31 amended to read:

32 25434. The department may contract with one or more business
33 entities capable of supplying or providing goods or services
34 necessary for the department to carry out the responsibilities for
35 the programs conducted pursuant to this article, and shall contract
36 with one or more business entities to evaluate the effectiveness of
37 the programs implemented pursuant to subdivision (a) of Section
38 25433.5. The department may select an entity on a sole source
39 basis for one or both of those purposes if the cost to the state will

1 be reasonable and the department determines that it is in the best
2 interest of the state.

3 SEC. 140. Section 25434.5 of the Public Resources Code is
4 amended to read:

5 25434.5. As used in this article, the following terms have the
6 following meanings:

7 (a) “Eligible construction or retrofit project” means a project
8 for making improvements to a home or building in existence on
9 April 12, 2001, through an addition, alteration, or repair, which
10 effectively increases the energy efficiency or reduces the energy
11 consumption of the home or building as specified by the
12 departmental guidelines under paragraph (2) of subdivision (f) of
13 Section 14 of Chapter 8 of the Statutes of the First Extraordinary
14 Session of 2001. The improvements shall be deemed to be
15 cost-effective.

16 (b) “Low income” means an individual with a gross annual
17 income equal to or less than 200 percent of the federal poverty
18 level.

19 (c) “Small business” means a small business as defined in
20 paragraph (1) of subdivision (d) of Section 14837 of the
21 Government Code.

22 SEC. 141. Section 25435 of the Public Resources Code is
23 amended to read:

24 25435. The department shall administer the Small Business
25 Energy Efficient Refrigeration Loan Program, as provided for in
26 Section 25436.

27 SEC. 142. Section 25436 of the Public Resources Code is
28 amended to read:

29 25436. (a) The department shall implement a Small Business
30 Energy Efficient Refrigeration Loan Program for qualifying small
31 businesses to purchase and install energy efficient refrigeration
32 equipment.

33 (b) The program shall offer loans at 3 percent interest on terms
34 that will ensure the small business owner will repay the loan over
35 time in accordance with terms established by the department, but
36 in no event may the term exceed the useful life of the purchase.

37 (c) The department may enter into agreements with lending
38 institutions and qualifying vendors to facilitate making and
39 administering loans. A loan made by the department for the

1 purchase of equipment shall be secured against the equipment
2 purchased.

3 SEC. 143. Section 25441 of the Public Resources Code is
4 amended to read:

5 25441. The department shall provide financial assistance to
6 local jurisdictions for the purpose of providing staff training and
7 support services, including, but not limited to, planning design,
8 permitting, energy conservation, comprehensive energy
9 management, project evaluation, and development of alternative
10 energy resources.

11 SEC. 144. Section 25442 of the Public Resources Code is
12 amended to read:

13 25442. The department shall provide loans to local jurisdictions
14 for all of the following purposes:

15 (a) Purchase, maintenance, and evaluation of energy efficient
16 or peak load reduction equipment for existing or planned facilities,
17 including, but not limited to, equipment related to lights, motors,
18 pumps, water and wastewater systems, boilers, heating, and air
19 conditioning.

20 (b) Purchase, maintenance, and evaluation of small power
21 production systems, including, but not limited to, wind,
22 cogeneration, photovoltaics, geothermal, and hydroelectric systems.

23 (c) Improvement of the operating efficiency of existing local
24 transportation systems.

25 SEC. 145. Section 25442.5 of the Public Resources Code is
26 amended to read:

27 25442.5. The department may award financial assistance for
28 project audits, feasibility studies, engineering and design, and legal
29 and financial analysis related to the purposes of Section 25442.

30 SEC. 146. Section 25442.7 of the Public Resources Code is
31 amended to read:

32 25442.7. (a) Loans under this article may not exceed five
33 million dollars (\$5,000,000) for any one local jurisdiction unless
34 the department determines that the public interest and objectives
35 of this chapter would be better served at a higher loan amount.

36 (b) Loan repayments shall be made in accordance with a
37 schedule established by the department. Repayment of loans shall
38 be made in full unless the department determines that the public
39 interest and objectives of this chapter would be better served by
40 negotiating a reduced loan repayment for a project that fails to

1 meet the technical or financial performance criteria through no
2 fault of the local jurisdiction.

3 SEC. 147. Section 25443 of the Public Resources Code is
4 amended to read:

5 25443. (a) Principal and interest payments on loans under this
6 article shall be returned to the department and shall be used to
7 make additional loans to local jurisdictions pursuant to Section
8 25442 or to provide financial assistance to local jurisdictions
9 pursuant to Section 25441.

10 (b) Notwithstanding any other provision of law, the department
11 shall, unless it determines that the purposes of this chapter would
12 be better served by establishing an alternative interest rate schedule,
13 periodically set interest rates on the loans based on surveys of
14 existing financial markets and at rates not less than 3 percent per
15 annum.

16 SEC. 148. Section 25443.5 of the Public Resources Code is
17 amended to read:

18 25443.5. (a) In furtherance of the purposes of the department
19 as set forth in this chapter, the department has the power and
20 authority to do all of the following:

21 (1) Borrow money, for the purpose of obtaining funds to make
22 loans pursuant to this chapter, from the California Economic
23 Development Financing Authority and the California Infrastructure
24 and Economic Development Bank from the proceeds of revenue
25 bonds issued by either of those agencies.

26 (2) Pledge, to provide collateral in connection with the
27 borrowing of money pursuant to paragraph (1), loans made
28 pursuant to this chapter or Chapter 5.2 (commencing with Section
29 25410), or the principal and interest payments on loans made
30 pursuant to this chapter or Chapter 5.2 (commencing with Section
31 25410).

32 (3) Sell loans made pursuant to this chapter or Chapter 5.2
33 (commencing with Section 25410), at prices determined in the
34 sole discretion of the department, to the California Economic
35 Development Financing Authority and the California Infrastructure
36 and Economic Development Bank, to raise funds to enable the
37 department to make loans to eligible institutions.

38 (4) Enter into loan agreements or other contracts necessary or
39 appropriate in connection with the pledge or sale of loans pursuant
40 to paragraph (2) or (3), or the borrowing of money as provided in

1 paragraph (1), containing any provisions that may be required by
2 the California Economic Development Financing Authority, the
3 California Infrastructure and Economic Development Bank, or the
4 department as conditions of issuing bonds to fund loans to, or the
5 purchase of loans from, the department.

6 (b) In connection with the pledging of loans, or of the principal
7 and interest payment on loans, pursuant to paragraph (2) of
8 subdivision (a), the department may enter into pledge agreements
9 setting forth the terms and conditions pursuant to which the
10 department is pledging loans or the principal and interest payment
11 on loans, and may also agree to have the loans held by bond
12 trustees or by independent collateral or escrow agents and to direct
13 that payments received on those loans be paid to those trustee,
14 collateral, or escrow agents.

15 (c) The department may employ financial consultants, legal
16 advisers, accountants, and other service providers, as may be
17 necessary in its judgment, in connection with activities pursuant
18 to this chapter.

19 (d) Notwithstanding any other provision of law, this chapter
20 provides a complete, separate, additional, and alternative method
21 for implementing the measures authorized by this chapter,
22 including the authority of the eligible institutions or local
23 jurisdictions to have borrowed and to borrow in the future pursuant
24 to loans made pursuant to this chapter or Chapter 5.2 (commencing
25 with Section 25410), and is supplemental and additional to powers
26 conferred by other laws.

27 SEC. 149. Section 25445 of the Public Resources Code is
28 amended to read:

29 25445. The department shall design a local jurisdiction energy
30 assistance program for the purpose of providing financial assistance
31 under Article 2 (commencing with Section 25441) and providing
32 loans under Article 3 (commencing with Section 25442). A local
33 jurisdiction's energy assistance program shall be funded through
34 the commission's existing local government assistance programs,
35 except that if a project is not eligible for funding under an existing
36 program, the department may fund the project under this chapter.

37 SEC. 150. Section 25449 of the Public Resources Code is
38 amended to read:

39 25449. The department shall enter into an agreement with the
40 Regents of the University of California, the Trustees of the

1 California State University, and the Board of Governors of the
2 California Community Colleges for the expenditure of petroleum
3 violation escrow funds to supplement, and not supplant, other
4 available funds to improve energy efficiency at state-supported
5 universities and colleges under their respective jurisdictions by
6 funding projects involving any of the following:

- 7 (a) Data collection.
- 8 (b) Establishment of operations and maintenance standards.
- 9 (c) Staff training.
- 10 (d) Ongoing energy equipment maintenance.
- 11 (e) Projects involving heating, ventilation, air conditioning, and
12 lighting equipment.

13 SEC. 151. Section 25449.1 of the Public Resources Code is
14 amended to read:

15 25449.1. The department shall enter into an agreement with
16 the State Department of Education to expend petroleum violation
17 escrow funds to supplement, and not supplant, other available
18 funds in order to provide loans to school districts to purchase,
19 maintain, and evaluate energy efficient equipment, small power
20 production systems, and peak load reduction equipment.

21 SEC. 152. Section 25449.2 of the Public Resources Code is
22 repealed.

23 SEC. 153. Section 25449.3 of the Public Resources Code is
24 amended to read:

25 25449.3. (a) The Local Jurisdiction Energy Assistance Account
26 is hereby created in the General Fund. All money appropriated for
27 purposes of this chapter and all money received from local
28 jurisdictions from loan repayments shall be deposited in the account
29 and disbursed by the Controller as authorized by the department.

30 (b) The department may charge a fee for the services provided
31 under this chapter.

32 (c) The department may contract for services to be performed
33 by eligible institutions, as defined in subdivision (c) of Section
34 25411. Those services may include, but are not limited to,
35 performance of a feasibility analysis, and providing project design,
36 field evaluation, and operation and training assistance. The amount
37 expended for contract services may not exceed 10 percent of the
38 annual scheduled loan repayment to the Local Jurisdiction Energy
39 Assistance Account, as determined by the department not later
40 than July 1 of each fiscal year.

1 SEC. 154. Section 25449.4 of the Public Resources Code is
2 amended to read:

3 25449.4. (a) Except as provided in subdivision (b), this chapter
4 shall remain in effect until January 1, 2026, and as of that date is
5 repealed, unless a later enacted statute which is enacted before
6 January 1, 2026, deletes or extends that date.

7 (b) All loans outstanding as of January 1, 2026, shall continue
8 to be repaid in accordance with a schedule established by the
9 commission pursuant to Section 25442.7, until paid in full. All
10 unexpended funds in the Local Jurisdiction Energy Assistance
11 Account on January 1, 2026, and thereafter, except to the extent
12 that those funds are encumbered pursuant to Section 25443.5, shall
13 be deposited in the Federal Trust Fund and be available for the
14 purposes for which federal oil overcharge funds are available
15 pursuant to court judgment or federal agency order.

16 SEC. 155. Section 25494 of the Public Resources Code is
17 amended to read:

18 25494. Not later than July 31, 1978, the department shall
19 prepare a manual outlining a methodology by which governmental
20 agencies and the general public may at their option compare the
21 lifecycle costs of various building design alternatives. This manual
22 will provide the information and procedures necessary to evaluate
23 a building's lifecycle costs in the microclimate and utility service
24 area where it is to be built.

25 SEC. 156. Section 25496 of the Public Resources Code is
26 amended to read:

27 25496. No later than July 1, 1978, the commission shall develop
28 and make available to government agencies and the general public
29 to be utilized at their option lighting standards for existing
30 buildings. These standards shall address, but not be limited to, task
31 and general area lighting levels, light switching and control
32 mechanisms, and lighting energy budgets. The department may
33 provide advice and recommendations to the public or any
34 governmental agency as to the standards.

35 SEC. 157. Section 25500 of the Public Resources Code is
36 amended to read:

37 25500. (a) In accordance with this division, the secretary, in
38 consultation with the commission, shall have the exclusive power
39 to certify all sites and related facilities in the state, whether a new
40 site and related facility or a change or addition to an existing

1 facility. The issuance of a certificate by the secretary shall be in
2 lieu of any permit, certificate, or similar document required by any
3 state, local or regional agency, or federal agency to the extent
4 permitted by federal law, for such use of the site and related
5 facilities, and shall supersede any applicable statute, ordinance, or
6 regulation of any state, local, or regional agency, or federal agency
7 to the extent permitted by federal law.

8 (b) After the effective date of this division, construction of a
9 facility or modification of an existing facility shall not be
10 commenced without first obtaining certification for the site and
11 related facility by the secretary, as prescribed in this division.

12 SEC. 158. Section 25500.5 of the Public Resources Code is
13 amended to read:

14 25500.5. The secretary shall certify sufficient sites and related
15 facilities that are required to provide a supply of electric power
16 sufficient to accommodate the demand projected in the most recent
17 forecast of statewide and service area electric power demands
18 adopted pursuant to subdivision (b) of Section 25309.

19 SEC. 159. Section 25501 of the Public Resources Code is
20 amended to read:

21 25501. This chapter does not apply to any site or related facility
22 that was not subject to this chapter prior to January 1, 2010, and
23 that, as of July 1, 2010, has an application accepted as complete
24 by the agency with jurisdiction on December 31, 2009.

25 SEC. 160. Section 25501.7 of the Public Resources Code is
26 amended to read:

27 25501.7. A person proposing to construct a facility or a site to
28 which Section 25501 applies may waive the exclusion of the site
29 and related facility from the provisions of this chapter by
30 submitting to the commission an application and any and all of
31 the provisions of this chapter shall apply to the construction of the
32 facility.

33 SEC. 161. Section 25502 of the Public Resources Code is
34 repealed.

35 SEC. 162. Section 25503 of the Public Resources Code is
36 repealed.

37 SEC. 163. Section 25504 of the Public Resources Code is
38 repealed.

39 SEC. 164. Section 25504.5 of the Public Resources Code is
40 repealed.

1 SEC. 165. Section 25505 of the Public Resources Code is
2 repealed.

3 SEC. 166. Section 25506 of the Public Resources Code is
4 repealed.

5 SEC. 167. Section 25506.5 of the Public Resources Code is
6 repealed.

7 SEC. 168. Section 25507 of the Public Resources Code is
8 repealed.

9 SEC. 169. Section 25508 of the Public Resources Code is
10 amended to read:

11 25508. The commission shall cooperate with, and render advice
12 to, the California Coastal Commission and the San Francisco Bay
13 Conservation and Development Commission in studying
14 applications for any site and related facility proposed to be located,
15 in whole or in part, within the coastal zone, the Suisun Marsh, or
16 the jurisdiction of the San Francisco Bay Conservation and
17 Development Commission if requested by the California Coastal
18 Commission or the San Francisco Bay Conservation and
19 Development Commission, as the case may be. The California
20 Coastal Commission or the San Francisco Bay Conservation and
21 Development Commission, as the case may be, may participate in
22 public hearings on the application for site and related facility
23 certification as an interested party in those proceedings.

24 SEC. 170. Section 25509 of the Public Resources Code is
25 repealed.

26 SEC. 171. Section 25509.5 of the Public Resources Code is
27 repealed.

28 SEC. 172. Section 25510 of the Public Resources Code is
29 repealed.

30 SEC. 173. Section 25511 of the Public Resources Code is
31 repealed.

32 SEC. 174. Section 25512 of the Public Resources Code is
33 repealed.

34 SEC. 175. Section 25512.5 of the Public Resources Code is
35 repealed.

36 SEC. 176. Section 25513 of the Public Resources Code is
37 repealed.

38 SEC. 177. Section 25514 of the Public Resources Code is
39 repealed.

1 SEC. 178. Section 25514.3 of the Public Resources Code is
2 repealed.

3 SEC. 179. Section 25514.5 of the Public Resources Code is
4 repealed.

5 SEC. 180. Section 25515 of the Public Resources Code is
6 repealed.

7 SEC. 181. Section 25516 of the Public Resources Code is
8 repealed.

9 SEC. 182. Section 25516.1 of the Public Resources Code is
10 repealed.

11 SEC. 183. Section 25516.5 of the Public Resources Code is
12 repealed.

13 SEC. 184. Section 25516.6 of the Public Resources Code is
14 repealed.

15 SEC. 185. Section 25517 of the Public Resources Code is
16 amended to read:

17 25517. Except as provided in Section 25501, construction of
18 a powerplant or electric transmission line shall not be commenced
19 by an electric utility without first obtaining certification as
20 prescribed in this division. Any onsite improvements not qualifying
21 as construction may be required to be restored as determined by
22 the commission to be necessary to protect the environment, if
23 certification is denied.

24 SEC. 186. Section 25518 of the Public Resources Code is
25 amended to read:

26 25518. The Public Utilities Commission shall not issue a
27 certificate of public convenience and necessity for a site or related
28 electrical facilities unless the utility has obtained a certificate from
29 the secretary.

30 SEC. 187. Section 25519 of the Public Resources Code is
31 amended to read:

32 25519. (a) In order to obtain certification for a site and related
33 facility, an application for certification of the site and related
34 facility shall be filed with the commission. The application shall
35 be in a form prescribed by the commission.

36 (b) The commission, upon its own motion or in response to the
37 request of any party, may require the applicant to submit any
38 information, document, or data, in addition to the attachments
39 required by subdivision (i), that it determines is reasonably
40 necessary to make any decision on the application.

1 (c) The commission shall be the lead agency as provided in
2 Section 21165 for all projects that require certification pursuant
3 to this chapter and for projects that are exempted from such
4 certification pursuant to Section 25541. Unless the commission's
5 regulatory program governing site and facility certification and
6 related proceedings are certified by the Resources Agency pursuant
7 to Section 21080.5, an environmental impact report shall be
8 completed within one year after receipt of the application. If the
9 commission prepares a document or documents in the place of an
10 environmental impact report or negative declaration under a
11 regulatory program certified pursuant to Section 21080.5, any
12 other public agency that must make a decision that is subject to
13 the California Environmental Quality Act, Division 13
14 (commencing with Section 21000), on a site or related facility,
15 shall use the document or documents prepared by the commission
16 in the same manner as they would use an environmental impact
17 report or negative declaration prepared by a lead agency.

18 (d) If the site and related facility specified in the application is
19 proposed to be located in the coastal zone, the commission shall
20 transmit a copy of the application to the California Coastal
21 Commission for its review and comments.

22 (e) If the site and related facility specified in the application is
23 proposed to be located in the Suisun Marsh or the jurisdiction of
24 the San Francisco Bay Conservation and Development
25 Commission, the commission shall transmit a copy of the
26 application to the San Francisco Bay Conservation and
27 Development Commission for its review and comments.

28 (f) Upon receipt of an application, the commission shall forward
29 the application to local governmental agencies having land use
30 and related jurisdiction in the area of the proposed site and related
31 facility. Those local agencies shall review the application and
32 submit comments on, among other things, the design of the facility,
33 architectural and aesthetic features of the facility, access to
34 highways, landscaping and grading, public use of lands in the area
35 of the facility, and other appropriate aspects of the design,
36 construction, or operation of the proposed site and related facility.

37 (g) Upon receipt of an application, the commission shall cause
38 a summary of the application to be published in a newspaper of
39 general circulation in the county in which the site and related
40 facilities, or any part thereof, designated in the application, is

1 proposed to be located. The commission shall transmit a copy of
2 the application to each federal and state agency having jurisdiction
3 or special interest in matters pertinent to the proposed site and
4 related facilities and to the Attorney General.

5 (h) Local and state agencies having jurisdiction or special
6 interest in matters pertinent to the proposed site and related
7 facilities shall provide their comments and recommendations on
8 the project within 180 days of the date of filing of an application.

9 (i) The adviser shall require that adequate notice is given to the
10 public and that the procedures specified by this division are
11 complied with.

12 (j) For any proposed site and related facility requiring a
13 certificate of public convenience and necessity, the commission
14 shall transmit a copy of the application to the Public Utilities
15 Commission and request the comments and recommendations of
16 the Public Utilities Commission on the economic, financial, rate,
17 system reliability, and service implications of the proposed site
18 and related facility. If the commission requires modification of the
19 proposed facility, the commission shall consult with the Public
20 Utilities Commission regarding the economic, financial, rate,
21 system reliability, and service implications of those modifications.

22 (k) The commission shall transmit a copy of the application to
23 any governmental agency not specifically mentioned in this act,
24 but which it finds has any information or interest in the proposed
25 site and related facilities, and shall invite the comments and
26 recommendations of each agency. The commission shall request
27 any relevant laws, ordinances, or regulations that an agency has
28 promulgated or administered.

29 (l) An application for certification of any site and related
30 facilities shall contain a listing of every federal agency from which
31 any approval or authorization concerning the proposed site is
32 required, specifying the approvals or authorizations obtained at
33 the time of the application and the schedule for obtaining any
34 approvals or authorizations pending.

35 SEC. 188. Section 25520 of the Public Resources Code is
36 amended to read:

37 25520. The application shall contain all of the following
38 information and any other information that the commission by
39 regulation may require:

1 (a) A detailed description of the design, construction, and
2 operation of the proposed facility.

3 (b) Safety and reliability information, including, but not limited
4 to, planned provisions for emergency operations and shutdowns.

5 (c) Available site information, including maps and descriptions
6 of present and proposed development and, as appropriate,
7 geological, aesthetic, ecological, seismic, water supply, population,
8 and load center data, and justification for the particular site
9 proposed.

10 (d) Any other information relating to the design, operation, and
11 siting of the facility that the commission may specify.

12 (e) A description of the facility, the cost of the facility, the fuel
13 to be used, the source of fuel, fuel cost, plant service life and
14 capacity factor, and generating cost per kilowatthour.

15 (f) A description of any electric transmission lines, including
16 the estimated cost of the proposed electric transmission line; a map
17 in suitable scale of the proposed routing showing details of the
18 rights-of-way in the vicinity of settled areas, parks, recreational
19 areas, and scenic areas, and existing transmission lines within one
20 mile of the proposed route; justification for the route, and a
21 preliminary description of the effect of the proposed electric
22 transmission line on the environment, ecology, and scenic, historic,
23 and recreational values.

24 (g) A discussion of the applicant's site selection criteria, any
25 alternative sites that the applicant considered for the project, and
26 the reasons why the applicant chose the proposed site. This
27 subdivision does not apply to an application for certification of
28 any of the following:

29 (1) A modification of an existing facility.

30 (2) A powerplant that can be sited, in a technologically or
31 economically feasible manner, only at or near the energy source.

32 (3) A cogeneration project at an existing industrial site.

33 (4) A powerplant at an existing industrial site, if the commission
34 finds that the project has a strong relationship to the existing
35 industrial site and that it is therefore reasonable not to analyze
36 alternative sites for the project.

37 SEC. 189. Section 25520.5 of the Public Resources Code is
38 repealed.

39 SEC. 190. Section 25522 of the Public Resources Code is
40 amended to read:

1 25522. (a) Within 12 months of the filing of an application
2 for certification or at any later time as is mutually agreed by the
3 commission and the applicant, the secretary shall issue a written
4 decision as to the application.

5 (b) The commission shall determine, within 45 days after it
6 receives the application, whether the application is complete. If
7 the commission determines that the application is complete, the
8 application shall be deemed filed for purposes of this section on
9 the date that this determination is made. If the commission
10 determines that the application is incomplete, the commission shall
11 specify in writing those parts of the application which are
12 incomplete and shall indicate the manner in which it can be made
13 complete. If the applicant submits additional data to complete the
14 application, the commission shall determine, within 30 days after
15 receipt of that data, whether the data is sufficient to make the
16 application complete. The application shall be deemed filed on the
17 date when the commission determines the application is complete
18 if the commission has adopted regulations specifying the
19 informational requirements for a complete application, but if the
20 commission has not adopted regulations, the application shall be
21 deemed filed on the last date the commission receives any
22 additional data that completes the application.

23 SEC. 191. Section 25523 of the Public Resources Code is
24 amended to read:

25 25523. The secretary shall prepare a written decision after the
26 public hearing on an application that includes all of the following:

27 (a) Specific provisions relating to the manner in which the
28 proposed facility is to be designed, sited, and operated in order to
29 protect environmental quality and assure public health and safety.

30 (b) In the case of a site to be located in the coastal zone, specific
31 provisions to meet the objectives of Division 20 (commencing
32 with Section 30000) as may be specified in the report submitted
33 by the California Coastal Commission pursuant to subdivision (d)
34 of Section 30413, unless the commission specifically finds that
35 the adoption of the provisions specified in the report would result
36 in greater adverse effect on the environment or that the provisions
37 proposed in the report would not be feasible.

38 (c) In the case of a site to be located in the Suisun Marsh or in
39 the jurisdiction of the San Francisco Bay Conservation and
40 Development Commission, specific provisions to meet the

1 requirements of Division 19 (commencing with Section 29000)
2 of this code or Title 7.2 (commencing with Section 66600) of the
3 Government Code as may be specified in the report submitted by
4 the San Francisco Bay Conservation and Development Commission
5 pursuant to subdivision (d) of Section 66645 of the Government
6 Code, unless the commission specifically finds that the adoption
7 of the provisions specified in the report would result in greater
8 adverse effect on the environment or the provisions proposed in
9 the report would not be feasible.

10 (d) (1) Findings regarding the conformity of the proposed site
11 and related facilities with standards adopted by the commission
12 pursuant to Section 25216.3 and subdivision (d) of Section 25402,
13 with public safety standards and the applicable air and water quality
14 standards, and with other applicable local, regional, state, and
15 federal standards, ordinances, or laws. If the secretary finds that
16 there is noncompliance with a state, local, or regional ordinance
17 or regulation in the application, he or she shall consult and meet
18 with the state, local, or regional governmental agency concerned
19 to attempt to correct or eliminate the noncompliance. If the
20 noncompliance cannot be corrected or eliminated, the commission
21 shall inform the state, local, or regional governmental agency if
22 he or she makes the findings required by Section 25525.

23 (2) The secretary shall not find that the proposed facility
24 conforms with applicable air quality standards pursuant to
25 paragraph (1) unless the applicable air pollution control district or
26 air quality management district certifies, prior to the licensing of
27 the project by the secretary, that complete emissions offsets for
28 the proposed facility have been identified and will be obtained by
29 the applicant within the time required by the district's rules or
30 unless the applicable air pollution control district or air quality
31 management district certifies that the applicant requires emissions
32 offsets to be obtained prior to the commencement of operation
33 consistent with Section 42314.3 of the Health and Safety Code
34 and prior to commencement of the operation of the proposed
35 facility. The secretary shall require as a condition of certification
36 that the applicant obtain any required emission offsets within the
37 time required by the applicable district rules, consistent with any
38 applicable federal and state laws and regulations, and prior to the
39 commencement of the operation of the proposed facility.

1 (e) Provision for restoring the site as necessary to protect the
2 environment, if the secretary denies approval of the application.

3 (f) In the case of a site and related facility using resource
4 recovery (waste-to-energy) technology, specific conditions
5 requiring that the facility be monitored to ensure compliance with
6 paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315
7 of the Health and Safety Code.

8 (g) In the case of a facility, other than a resource recovery
9 facility subject to subdivision (f), specific conditions requiring the
10 facility to be monitored to ensure compliance with toxic air
11 contaminant control measures adopted by an air pollution control
12 district or air quality management district pursuant to subdivision
13 (d) of Section 39666 or Section 41700 of the Health and Safety
14 Code, whether the measures were adopted before or after issuance
15 of a determination of compliance by the district.

16 (h) A discussion of any public benefits from the project
17 including, but not limited to, economic benefits, environmental
18 benefits, and electricity reliability benefits.

19 SEC. 192. Section 25524.1 of the Public Resources Code is
20 amended to read:

21 25524.1. (a) Except for the existing Diablo Canyon Units 1
22 and 2 owned by Pacific Gas and Electric Company and San Onofre
23 Units 2 and 3 owned by Southern California Edison Company and
24 San Diego Gas and Electric Company, a nuclear fission powerplant
25 requiring the reprocessing of fuel rods, including any to which this
26 chapter does not otherwise apply, excepting any having a vested
27 right as defined in this section, shall not be permitted land use in
28 the state or, where applicable, certified by the commission until
29 both of the following conditions are met:

30 (1) The commission finds that the United States through its
31 authorized agency has identified and approved, and there exists a
32 technology for the construction and operation of, nuclear fuel rod
33 reprocessing plants.

34 (2) The commission has reported its findings and the reasons
35 therefor pursuant to paragraph (1) to the Legislature. That report
36 shall be assigned to the appropriate policy committees for review.
37 The secretary may proceed to certify nuclear fission thermal
38 powerplants 100 legislative days after reporting the commission's
39 findings unless within those 100 legislative days either house of
40 the Legislature adopts by a majority vote of its members a

1 resolution disaffirming the findings of the commission made
2 pursuant to paragraph (1).

3 (3) A resolution of disaffirmance shall set forth the reasons for
4 the action and shall provide, to the extent possible, guidance to
5 the commission as to an appropriate method of bringing the
6 commission's findings into conformance with paragraph (1).

7 (4) If a disaffirming resolution is adopted, the commission shall
8 reexamine its original findings consistent with matters raised in
9 the resolution. On conclusion of its reexamination, the commission
10 shall transmit its findings in writing, with the reasons therefor, to
11 the Legislature.

12 (5) If the findings are that the conditions of paragraph (1) have
13 been met, the secretary may proceed to certify nuclear fission
14 powerplants 100 legislative days after reporting its findings to the
15 Legislature unless within those 100 legislative days both houses
16 of the Legislature act by statute to declare the findings null and
17 void and takes appropriate action.

18 (6) To allow sufficient time for the Legislature to act, the reports
19 of findings of the commission shall be submitted to the Legislature
20 at least six calendar months prior to the adjournment of the
21 Legislature sine die.

22 (b) The commission shall further find on a case-by-case basis
23 that facilities with adequate capacity to reprocess nuclear fuel rods
24 from a certified nuclear facility or to store that fuel if that storage
25 is approved by an authorized agency of the United States are in
26 actual operation or will be in operation at the time that the nuclear
27 facility requires reprocessing or storage; provided, however, that
28 the storage of fuel is in an offsite location to the extent necessary
29 to provide continuous onsite full core reserve storage capacity.

30 (c) The commission shall continue to receive and process
31 applications for certification pursuant to this division, but the
32 secretary shall not issue a decision pursuant to Section 25523
33 granting a certificate until the requirements of this section have
34 been met. All other permits, licenses, approvals, or authorizations
35 for the entry or use of the land, including orders of court, which
36 may be required may be processed and granted by the governmental
37 entity concerned, but construction work to install permanent
38 equipment or structures shall not commence until the requirements
39 of this section have been met.

1 SEC. 193. Section 25524.2 of the Public Resources Code is
2 amended to read:

3 25524.2. Except for the existing Diablo Canyon Units 1 and 2
4 owned by Pacific Gas and Electric Company and San Onofre Units
5 2 and 3 owned by Southern California Edison Company and San
6 Diego Gas and Electric Company, a nuclear fission powerplant,
7 including any to which this chapter does not otherwise apply, but
8 excepting those exempted herein, shall not be permitted land use
9 in the state, or where applicable, be certified by the secretary until
10 both of the following conditions have been met:

11 (a) The commission finds that there has been developed and
12 that the United States through its authorized agency has approved
13 and there exists a demonstrated technology or means for the
14 disposal of high-level nuclear waste.

15 (b) (1) The commission has reported its findings and the reasons
16 therefor pursuant to paragraph (a) to the Legislature. That report
17 shall be assigned to the appropriate policy committees for review.
18 The secretary may proceed to certify nuclear fission thermal
19 powerplants 100 legislative days after reporting the commission's
20 findings unless within those 100 legislative days either house of
21 the Legislature adopts by a majority vote of its members a
22 resolution disaffirming the findings of the commission made
23 pursuant to subdivision (a).

24 (2) A resolution of disaffirmance shall set forth the reasons for
25 the action and shall provide, to the extent possible, guidance to
26 the commission as to an appropriate method of bringing the
27 commission's findings into conformance with subdivision (a).

28 (3) If a disaffirming resolution is adopted, the commission shall
29 reexamine its original findings consistent with matters raised in
30 the resolution. On conclusion of its reexamination, the commission
31 shall transmit its findings in writing, with the reasons therefor, to
32 the Legislature.

33 (4) If the findings are that the conditions of subdivision (a) have
34 been met, the secretary may proceed to certify nuclear fission
35 powerplants 100 legislative days after reporting its findings to the
36 Legislature unless within those 100 legislative days both houses
37 of the Legislature act by statute to declare the findings null and
38 void and take appropriate action.

39 (5) To allow sufficient time for the Legislature to act, the reports
40 of findings of the commission shall be submitted to the Legislature

1 at least six calendar months prior to the adjournment of the
2 Legislature sine die.

3 (c) As used in subdivision (a), “technology or means for the
4 disposal of high-level nuclear waste” means a method for the
5 permanent and terminal disposition of high-level nuclear waste.
6 Nothing in this section requires that facilities for the application
7 of that technology or means be available at the time that the
8 commission makes its findings. That disposition of high-level
9 nuclear waste does not preclude the possibility of an approved
10 process for retrieval of the waste.

11 (d) The commission shall continue to receive and process
12 applications for certification pursuant to this division but the
13 secretary shall not issue a decision pursuant to Section 25523
14 granting a certificate until the requirements of this section have
15 been met. All other permits, licenses, approvals, or authorizations
16 for the entry or use of the land, including orders of court, which
17 may be required may be processed and granted by the governmental
18 entity concerned, but construction work to install permanent
19 equipment or structures shall not commence until the requirements
20 of this section have been met.

21 SEC. 194. Section 25524.5 of the Public Resources Code is
22 repealed.

23 SEC. 195. Section 25525 of the Public Resources Code is
24 amended to read:

25 25525. The secretary shall not certify a facility contained in
26 the application if he or she finds, pursuant to subdivision (d) of
27 Section 25523, that the facility does not conform with any
28 applicable state, local, or regional standards, ordinances, or laws,
29 unless the secretary determines that the facility is required for
30 public convenience and necessity and that there are not more
31 prudent and feasible means of achieving public convenience and
32 necessity. In making the determination, the secretary shall consider
33 the entire record of the proceeding, including, but not limited to,
34 the impacts of the facility on the environment, consumer benefits,
35 and electric system reliability. The secretary shall not make a
36 finding in conflict with applicable federal law or regulation. The
37 basis for these findings shall be reduced to writing and submitted
38 as part of the record pursuant to Section 25523.

39 SEC. 196. Section 25526 of the Public Resources Code is
40 amended to read:

1 25526. (a) The secretary shall not approve as a site for a facility
2 any location designated by the California Coastal Commission
3 pursuant to subdivision (b) of Section 30413, unless the California
4 Coastal Commission first finds that the use is not inconsistent with
5 the primary uses of the land and that there will be no substantial
6 adverse environmental effects and unless the approval of any public
7 agency having ownership or control of such land is obtained.

8 (b) The secretary shall not approve as a site for a facility any
9 location designated by the San Francisco Bay Conservation and
10 Development Commission pursuant to subdivision (b) of Section
11 66645 of the Government Code unless the San Francisco Bay
12 Conservation and Development Commission first finds that the
13 use is not inconsistent with the primary uses of the land and that
14 there will be no substantial adverse environmental effects and
15 unless the approval of any public agency having ownership or
16 control of the land is obtained.

17 SEC. 197. Section 25527 of the Public Resources Code is
18 amended to read:

19 25527. The following areas of the state shall not be approved
20 as a site for a facility, unless the secretary finds that the use is not
21 inconsistent with the primary uses of the lands and that there will
22 be no substantial adverse environmental effects and the approval
23 of any public agency having ownership or control of the lands is
24 obtained:

25 (a) State, regional, county and city parks; wilderness, scenic or
26 natural reserves; areas for wildlife protection, recreation, historic
27 preservation; or natural preservation areas in existence on the
28 effective date of this division.

29 (b) Estuaries in an essentially natural and undeveloped state.

30 In considering applications for certification, the secretary shall
31 give the greatest consideration to the need for protecting areas of
32 critical environmental concern, including, but not limited to, unique
33 and irreplaceable scientific, scenic, and educational wildlife
34 habitats; unique historical, archaeological, and cultural sites; lands
35 of hazardous concern; and areas under consideration by the state
36 or the United States for wilderness, or wildlife and game reserves.

37 SEC. 198. Section 25528 of the Public Resources Code is
38 amended to read:

39 25528. (a) (1) The secretary shall require, as a condition of
40 certification of any site and related facility, that the applicant

1 acquire, by grant or contract, the right to prohibit development of
2 privately owned lands in the area of the proposed site that will
3 result in population densities in excess of the maximum population
4 densities that the secretary determines, as to the factors considered
5 by the commission pursuant to subdivision (b) of Section 25520,
6 are necessary to protect public health and safety.

7 (2) If the applicant is authorized to exercise the right of eminent
8 domain under Article 7 (commencing with Section 610) of Chapter
9 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant
10 may exercise the right of eminent domain to acquire those
11 development rights that the secretary requires be acquired.

12 (b) In the case of an application for a nuclear facility, the area
13 and population density necessary to insure the public's health and
14 safety designated by the secretary shall be that as determined from
15 time to time by the United States Nuclear Regulatory Commission,
16 if the secretary finds that the determination is sufficiently definitive
17 for valid land use planning requirements.

18 (c) The secretary shall waive the requirements of the acquisition
19 of development rights by an applicant to the extent that the
20 secretary finds that existing governmental land use restrictions are
21 of a type necessary and sufficient to guarantee the maintenance of
22 population levels and land use development over the lifetime of
23 the facility which will insure the public health and safety
24 requirements set pursuant to this section.

25 (d) A change in governmental land use restrictions in areas
26 designated in subdivision (c) of this section by any government
27 agency shall not be effective until approved by the secretary. The
28 approval shall certify that the change in land use restrictions is not
29 in conflict with requirements provided for by this section.

30 (e) It is not the intent of the Legislature by the enactment of this
31 section to take private property for public use without payment of
32 just compensation in violation of the United States Constitution
33 or the Constitution of California.

34 SEC. 199. Section 25529 of the Public Resources Code is
35 amended to read:

36 25529. If a facility is proposed to be located in the coastal zone
37 or any other area with recreational, scenic, or historic value, the
38 secretary shall require, as a condition of certification of any facility
39 contained in the application, that an area be established for public
40 use, as determined by the secretary. Lands within the area shall be

1 acquired and maintained by the applicant and shall be available
2 for public access and use, subject to restrictions required for
3 security and public safety. The applicant may dedicate the public
4 use zone to any local agency agreeing to operate or maintain it for
5 the benefit of the public. If no local agency agrees to operate or
6 maintain the public use zone for the benefit of the public, the
7 applicant may dedicate the zone to the state. The secretary shall
8 also require that any facility to be located along the coast or
9 shoreline of any major body of water be set back from the shoreline
10 to permit reasonable public use and to protect scenic and aesthetic
11 values.

12 SEC. 200. Section 25530 of the Public Resources Code is
13 amended to read:

14 25530. (a) The secretary may order a reconsideration of all or
15 part of a decision or order on petition of any party.

16 (b) A petition for reconsideration shall be filed within 30 days
17 after adoption by the secretary of a decision or order. The secretary
18 shall not order a reconsideration more than 30 days after he or she
19 has adopted a decision or order. The secretary shall order or deny
20 reconsideration on a petition within 30 days after the petition is
21 filed.

22 (c) A decision or order may be reconsidered by the secretary
23 on the basis of all pertinent portions of the record together with
24 any argument that the secretary may permit, or the secretary may
25 hold a further hearing, after notice to all interested persons. A
26 decision or order of the secretary on reconsideration shall have the
27 same force and effect as an original order or decision.

28 SEC. 201. Section 25531 of the Public Resources Code is
29 amended to read:

30 25531. (a) The decisions of the secretary on an application for
31 certification of a site and related facility are subject to judicial
32 review by the Supreme Court of California.

33 (b) New or additional evidence shall not be introduced upon
34 review and the cause shall be heard on the record of the secretary
35 as certified to by him or her. The review shall not be extended
36 further than to determine whether the secretary has regularly
37 pursued his or her authority, including a determination of whether
38 the order or decision under review violates any right of the
39 petitioner under the United States Constitution or the California
40 Constitution. The findings and conclusions of the commission on

1 questions of fact are final and are not subject to review, except as
2 provided in this article. These questions of fact shall include
3 ultimate facts and the findings and conclusions of the secretary.

4 (c) Subject to the right of judicial review of decisions of the
5 secretary, no court in this state has jurisdiction to hear or determine
6 any case or controversy concerning any matter which was, or could
7 have been, determined in a proceeding before the secretary, or to
8 stop or delay the construction or operation of a powerplant except
9 to enforce compliance with the provisions of a decision of the
10 secretary.

11 (d) Notwithstanding Section 1250.370 of the Code of Civil
12 Procedure:

13 (1) If the secretary requires, pursuant to subdivision (a) of
14 Section 25528, as a condition of certification of any site and related
15 facility, that the applicant acquire development rights, that
16 requirement conclusively establishes the matters referred to in
17 Sections 1240.030 and 1240.220 of the Code of Civil Procedure
18 in any eminent domain proceeding brought by the applicant to
19 acquire the development rights.

20 (2) If the secretary certifies any site and related facility, that
21 certification conclusively establishes the matters referred to in
22 Sections 1240.030 and 1240.220 of the Code of Civil Procedure
23 in any eminent domain proceeding brought to acquire the site and
24 related facility.

25 (e) A decision of the secretary pursuant to Section 25522 or
26 25523 shall not be found to mandate a specific supply plan for any
27 utility as prohibited by Section 25323.

28 SEC. 202. Section 25534 of the Public Resources Code is
29 amended to read:

30 25534. (a) The secretary may, after one or more hearings,
31 amend the conditions of, or revoke the certification for, any facility
32 for any of the following reasons:

33 (1) Any material false statement set forth in the application,
34 presented in proceedings of the commission, or included in
35 supplemental documentation provided by the applicant.

36 (2) Any significant failure to comply with the terms or
37 conditions of approval of the application, as specified by the
38 secretary in its written decision.

39 (3) A violation of this division or any regulation or order issued
40 by the commission under this division.

(4) The owner of a project does not start construction of the project within 12 months after the date all permits necessary for the project become final and all administrative and judicial appeals have been resolved provided the commission notifies the secretary that it is willing and able to construct the project pursuant to subdivision (g). The project owner may extend the 12-month period by 24 additional months pursuant to subdivision (f). This paragraph applies only to projects with a project permit application deemed complete by the commission after January 1, 2003.

(b) The commission may also administratively impose a civil penalty for a violation of paragraph (1) or (2) of subdivision (a). Any civil penalty shall be imposed in accordance with Section 25534.1 and may not exceed seventy-five thousand dollars (\$75,000) per violation, except that the civil penalty may be increased by an amount not to exceed one thousand five hundred dollars (\$1,500) per day for each day in which the violation occurs or persists, but the total of the per day penalties may not exceed fifty thousand dollars (\$50,000).

(c) A project owner shall commence construction of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) within 12 months after the project has been certified by the secretary and after all accompanying project permits are final and administrative and judicial appeals have been completed. The project owner shall submit construction and commercial operation milestones to the commission within 30 days after project certification. Construction milestones shall require the start of construction within the 12-month period established by this subdivision. The commission shall approve milestones within 60 days after project certification. If the 30-day deadline to submit construction milestones to the commission is not met, the commission shall establish milestones for the project.

(d) The failure of the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to meet construction or commercial operation milestones, without a finding by the commission of good cause, shall be cause for revocation of certification or the imposition of other penalties by the commission.

(e) A finding by the commission that there is good cause for failure to meet the start-of-construction deadline required by paragraph (4) of subdivision (a) or any subsequent milestones of

subdivision (c) shall be made if the commission determines that any of the following criteria are met:

(1) The change in any deadline or milestone does not change the established deadline or milestone for the start of commercial operation.

(2) The deadline or milestone is changed due to circumstances beyond the project owner's control, including, but not limited to, administrative and legal appeals.

(3) The deadline or milestone will be missed but the project owner demonstrates a good faith effort to meet the project deadline or milestone.

(4) The deadline or milestone will be missed due to unforeseen natural disasters or acts of God that prevent timely completion of the project deadline or milestone.

(5) The deadline or milestone will be missed for any other reason determined reasonable by the commission.

(f) The commission shall extend the start-of-construction deadline required by paragraph (4) of subdivision (a) by an additional 24 months, if the owner reimburses the commission's actual cost of licensing the project, less the amount paid pursuant to subdivision (a) of Section 25806. For the purposes of this section, the commission's actual cost of licensing the project shall be based on a certified audit report filed by the commission staff within 180 days of the commission's certification of the project. The certified audit shall be filed and served on all parties to the proceeding, is subject to public review and comment, and is subject to at least one public hearing if requested by the project owner. Any reimbursement received by the commission pursuant to this subdivision shall be deposited in the General Fund.

(g) If the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) fails to commence construction, without good cause, within 12 months after the project has been certified by the commission and has not received an extension pursuant to subdivision (f), the commission shall evaluate whether to pursue the project independently or in conjunction with any other public or private entity, including the original certificate holder. If the commission is willing and able to construct the project either independently or in conjunction with any other public or private entity, including the original certificate holder, the secretary may revoke the original certification and issue

1 a new certification for the project to the commission unless the
2 commission's statutory authorization to finance or approve new
3 programs, enterprises, or projects has expired. If the commission
4 declines to pursue the project, the permit shall remain with the
5 current project owner until it expires pursuant to the regulations
6 adopted by the commission.

7 (h) If the secretary issues a new certification for a project subject
8 to the start-of-construction deadline provided by paragraph (4) of
9 subdivision (a) to the commission, the secretary shall adopt new
10 milestones for the project that allow the commission up to 24
11 months to start construction of the project or to start to meet the
12 applicable deadlines or milestones. If the commission fails to begin
13 construction in conformity with the deadlines or milestones adopted
14 by the secretary, without good cause, the certification may be
15 revoked.

16 (i) (1) If the secretary issues a new certification for a project
17 subject to the start-of-construction deadline provided by paragraph
18 (4) of subdivision (a) to the commission and the commission
19 pursues the project without participation of the original certificate
20 holder, the commission shall offer to reimburse the original
21 certificate holder for the actual costs the original certificate holder
22 incurred in permitting the project and in procuring assets associated
23 with the license, including, but not limited to, major equipment
24 and the emission offsets. In order to receive reimbursement, the
25 original certificate holder shall provide to the commission
26 documentation of the actual costs incurred in permitting the project.
27 The commission shall validate those costs. The certificate holder
28 may refuse to accept the offer of reimbursement for any asset
29 associated with the license and retain the asset. To the extent the
30 certificate holder chooses to accept the offer for an asset, it shall
31 provide the commission with the asset.

32 (2) If the commission reimburses the original certificate holder
33 for the costs described in paragraph (1), the original certificate
34 holder shall provide the commission with all of the assets for which
35 the original certificate holder received reimbursement.

36 (j) This section does not prevent a certificate holder from selling
37 its license to construct and operate a project prior to its revocation
38 by the secretary. In the event of a sale to an entity that is not an
39 affiliate of the certificate holder, the commission shall adopt new
40 deadlines or milestones for the project that allow the new certificate

holder up to 12 months to start construction of the project or to start to meet the applicable deadlines or milestones.

(k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued for the modernization, repowering, replacement, or refurbishment of existing facilities or to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Parts 292.101 to 292.602, inclusive), nor shall those provisions apply to any other generation units installed, operated, and maintained at a customer site exclusively to serve that facility's load. For the purposes of this subdivision, "replacement" of an existing facility includes, but is not limited to, a comparable project at a location different than the facility being replaced, provided that the commission certifies that the new project will result in the decommissioning of the existing facility.

(l) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued to "local publicly owned electric utilities," as defined in Section 224.3 of the Public Utilities Code, whose governing bodies certify to the secretary that the project is needed to meet the projected native load of the local publicly owned utility.

(m) To implement this section, the commission may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 203. Section 25534.1 of the Public Resources Code is amended to read:

25534.1. (a) The department may issue a complaint to any person or entity on whom an administrative civil penalty may be imposed pursuant to Section 25534. The complaint shall allege the act or failure to act for which the civil penalty is proposed, the

1 provision of law authorizing civil liability, and the proposed civil
2 penalty.

3 (b) The complaint shall be served by personal notice or certified
4 mail, and shall inform the party so served that a hearing will be
5 conducted within 60 days after the party has been served. The
6 hearing shall be before the commission. The complainant may
7 waive the right to a hearing, in which case the commission shall
8 not conduct a hearing.

9 (c) After any hearing, the commission may adopt, with or
10 without revision, the proposed decision and order of the executive
11 department.

12 (d) Orders setting an administrative civil penalty shall become
13 effective and final upon issuance thereof, and any payment shall
14 be made within 30 days. Copies of these orders shall be served by
15 personal service or by registered mail upon the party served with
16 the complaint and upon other persons who appeared at the hearing
17 and requested a copy.

18 (e) In determining the amount of the administrative civil penalty,
19 the commission shall take into consideration the nature,
20 circumstance, extent, and gravity of the violation or violations,
21 whether the violation is susceptible to removal or resolution, the
22 cost to the state in pursuing the enforcement action, and with
23 respect to the violator, the ability to pay, the effect on ability to
24 continue in business, any voluntary removal or resolution efforts
25 undertaken, any prior history of violations, the degree of
26 culpability, economic savings, if any, resulting from the violation,
27 and such other matters as justice may require.

28 SEC. 204. Section 25538 of the Public Resources Code is
29 amended to read:

30 25538. Upon receiving the commission's request for review
31 under subdivision (f) of Section 25519, the local agency may
32 request a fee from the commission to reimburse the local agency
33 for the actual and added costs of this review by the local agency.
34 The commission shall reimburse the local agency for the added
35 costs that shall be actually incurred by the local agency in
36 complying with the commission's request. The local agency may
37 also request reimbursement for permit fees that the local agency
38 would receive but for the operation of Section 25500. However,
39 these fees may only be requested in accordance with actual services
40 performed by the local agency. The commission shall either request

1 a fee from the person proposing the project or devote a special
2 fund in its budget, for the reimbursement of these costs incurred
3 by local agencies.

4 SEC. 205. Section 25539 of the Public Resources Code is
5 amended to read:

6 25539. In reviewing applications for certification of
7 modifications of existing facilities, the commission shall adopt
8 rules and regulations as necessary to ensure that relevant duties
9 pursuant to this division are carried out.

10 SEC. 206. Section 25540 of the Public Resources Code is
11 amended to read:

12 25540. If a person proposes to construct a geothermal
13 powerplant and related facility or facilities on a site, the secretary
14 shall issue its final decision on the application, as specified in
15 Section 25523, within nine months from the date of the filing of
16 the application for certification, or at such later time as is mutually
17 agreed to by the commission and the applicant or person submitting
18 the notice or application.

19 SEC. 207. Section 25540.1 of the Public Resources Code is
20 amended to read:

21 25540.1. The commission shall determine, within 30 days after
22 the receipt of an application for a geothermal powerplant, whether
23 the application is complete. If the application is determined not to
24 be complete, the commission's determination shall specify, in
25 writing, those parts of the application that are incomplete and shall
26 indicate the manner in which it can be made complete. Within 30
27 days after receipt of the applicant's filing with the commission the
28 additional information requested by the commission to make the
29 application complete, the commission shall determine whether the
30 subsequent filing is sufficient to complete the application. An
31 application shall be deemed filed for purposes of Section 25540
32 on the date the commission determines the application is completed
33 if the commission has adopted regulations specifying the
34 informational requirements for a complete application, but if the
35 commission has not adopted regulations, the application shall be
36 deemed filed on the last date the commission receives any
37 additional data that completes the application.

38 SEC. 208. Section 25540.2 of the Public Resources Code is
39 amended to read:

1 25540.2. Upon receipt of an application for certification of a
2 geothermal powerplant and related facilities, the commission shall
3 transmit a copy of the application to every state and local agency
4 having jurisdiction over land use in the area involved.

5 SEC. 209. Section 25540.3 of the Public Resources Code is
6 amended to read:

7 25540.3. (a) An applicant for a geothermal powerplant may
8 propose a site to be approved that will accommodate a potential
9 maximum electric generating capacity in excess of the capacity
10 being proposed for initial construction. In addition to the
11 information concerning the initial powerplant and related facilities
12 proposed for construction required pursuant to Section 25520, the
13 application shall include all of the following, to the extent known:

14 (1) The number, type, and energy source of electric generating
15 units that the site is proposed ultimately to accommodate and the
16 maximum generating capacity for each unit.

17 (2) The projected installation schedule for each unit.

18 (3) The impact of the site, when fully developed, on the
19 environment and public health and safety.

20 (4) The amount and sources of cooling water needed at the fully
21 developed site.

22 (5) The general location and design of auxiliary facilities
23 planned for each stage of development, including, but not limited
24 to pipelines, transmission lines, waste storage and disposal
25 facilities, switchyards, and cooling ponds, lakes, or towers.

26 (6) Other information relating to the design, operation, and siting
27 of the facility that the commission may by regulation require.

28 (b) (1) If an application is filed pursuant to subdivision (a) that
29 proposes a site to be approved that will accommodate a potential
30 maximum electric generating capacity in excess of the capacity
31 being proposed for initial construction, the secretary may, in his
32 or her decision pursuant to subdivision (a), either certify only the
33 initial facility or facilities proposed for initial construction or may
34 certify the initial facility or facilities and find the site acceptable
35 for additional generating capacity of the type tentatively proposed.
36 The maximum allowable amount and type of the additional
37 capacity shall be determined by the commission.

38 (2) If the decision includes a finding that a particular site is
39 suitable to accommodate a particular additional generating capacity,
40 the site shall be designated a potential multiple facility site. The

1 secretary may, in determining the acceptability of a potential
2 multiple facility site, specify conditions or criteria necessary to
3 ensure that future additional facilities will not exceed the
4 limitations of the site.

5 SEC. 210. Section 25540.4 of the Public Resources Code is
6 repealed.

7 SEC. 211. Section 25540.6 of the Public Resources Code is
8 repealed.

9 SEC. 212. Section 25541 of the Public Resources Code is
10 amended to read:

11 25541. The commission may exempt from this chapter
12 powerplants with a generating capacity of up to 100 megawatts
13 and modifications to existing generating facilities that do not add
14 capacity in excess of 100 megawatts, if the commission finds that
15 no substantial adverse impact on the environment or energy
16 resources will result from the construction or operation of the
17 proposed facility or from the modifications.

18 SEC. 213. Section 25541.1 of the Public Resources Code is
19 amended to read:

20 25541.1. It is the intent of the Legislature to encourage the
21 development of powerplants using resource recovery
22 (waste-to-energy) technology. Previously enacted incentives for
23 the production of electrical energy from nonfossil fuels in
24 commercially scaled projects have failed to produce the desired
25 results. At the same time, the state faces a growing problem in the
26 environmentally safe disposal of its solid waste. The creation of
27 electricity by a powerplant using resource recovery technology
28 addresses both problems by doing all of the following:

29 (a) Generating electricity from a nonfossil fuel of an ample,
30 growing supply.

31 (b) Conserving landfill space, thus reducing waste disposal
32 costs.

33 (c) Avoiding the health hazards of burying garbage.

34 Furthermore, development of resource recovery facilities creates
35 new construction jobs, as well as ongoing operating jobs, in the
36 communities in which they are located.

37 SEC. 214. Section 25541.5 of the Public Resources Code is
38 amended to read:

39 25541.5. (a) On or before January 1, 2001, the Secretary of
40 the Natural Resources Agency shall review the regulatory program

1 conducted pursuant to this chapter that was certified pursuant to
2 subdivision (j) of Section 15251 of Title 14 of the California Code
3 of Regulations, to determine whether the regulatory program meets
4 the criteria specified in Section 21080.5. If the Secretary of the
5 Natural Resources Agency determines that the regulatory program
6 meets those criteria, he or she shall continue the certification of
7 the regulatory program.

8 (b) If the Secretary of the Natural Resources Agency continues
9 the certification of the regulatory program, the commission shall
10 amend the regulatory program from time to time, as necessary to
11 permit the Secretary of the Natural Resources Agency to continue
12 to certify the program.

13 (c) This section does not invalidate the certification of the
14 regulatory program, as it existed on January 1, 2000, pending the
15 review required by subdivision (a).

16 SEC. 215. Section 25542 of the Public Resources Code is
17 amended to read:

18 25542. In the case of any site and related facility or facilities
19 for which the provisions of this division do not apply, the exclusive
20 power given to the secretary pursuant to Section 25500 to certify
21 sites and related facilities shall not be in effect.

22 SEC. 216. Section 25543 of the Public Resources Code is
23 amended to read:

24 25543. (a) It is the intent of the Legislature to improve the
25 process of siting and licensing new electric powerplants to ensure
26 that these facilities can be sited in a timely manner, while protecting
27 environmental quality and public participation in the siting process.

28 (b) The department shall prepare, and submit to the Governor
29 and the Legislature on or before March 31, 2000, a report that
30 identifies administrative and statutory measures that, preserving
31 environmental protections and public participation, would improve
32 the commission's siting and licensing process for powerplants of
33 50 megawatts and larger. The report shall include, but is not limited
34 to, all of the following:

35 (1) An examination of potential process efficiencies associated
36 with required hearings, site visits, and documents.

37 (2) A review of the impacts on both process efficiency and
38 public participation of restrictions on communications between
39 applicants, the public, and staff or decisionmakers.

1 (3) An assessment of means for improving coordination with
2 the licensing activities of local jurisdictions and participation by
3 other state agencies.

4 (4) An assessment of organizational structure issues including
5 the adequacy of the amounts and organization of current technical
6 and legal resources.

7 (5) Recommendations for administrative and statutory measures
8 to improve the siting and licensing process.

9 (c) The commission may immediately implement any
10 administrative recommendations. Regulations, as identified in
11 paragraph (5), adopted within 180 days of the effective date of this
12 section may be adopted as emergency regulations in accordance
13 with Chapter 3.5 (commencing with Section 11340) of the
14 Government Code. For purposes of that chapter, including Section
15 11349.6 of the Government Code, the adoption of the regulations
16 shall be considered by the Office of Administrative Law to be
17 necessary for the immediate preservation of the public peace,
18 health, safety, and general welfare.

19 SEC. 217. Section 25544 is added to the Public Resources
20 Code, to read:

21 25544. (a) The commission may, after one or more public
22 hearings, designate preferred areas for solar energy development
23 based on environmental sensitivity, the presence of infrastructure,
24 and other relevant considerations. Designation of an area under
25 this section shall be through a planning study, which will not have
26 a legally binding effect on later activities, but will serve as guidance
27 to developers and regulatory agencies in the selection of suitable
28 sites for the development of solar projects.

29 (b) The commission shall give priority to, and expedite the
30 review of, applications for generating facilities that use a renewable
31 resource as their primary fuel or power source and transmission
32 lines proposed to access new or anticipated generating facilities.

33 SEC. 218. Section 25545 is added to the Public Resources
34 Code, to read:

35 25545. (a) Notwithstanding subdivision (a) of Section 25522,
36 the commission shall establish a process to issue the secretary's
37 final decision within nine months after the filing of an application
38 for any of the following:

39 (1) An electric transmission line that provides access to electric
40 generation from renewable resources and would be constructed

1 within a transmission corridor zone designated under Section
2 25331.

3 (2) A solar powerplant that is constructed within an area
4 designated as a preferred area for solar energy development in a
5 planning report under Section 25552.

6 (3) A generating facility that uses a renewable resource as its
7 primary fuel or power source and would be constructed within an
8 area designated by the Renewable Energy Transmission Initiative
9 as a competitive renewable energy zone.

10 (b) For purposes of this section, “filing” has the same meaning
11 as in Section 25522.

12 (c) For an application filed in a process established under this
13 section, all local, regional, and state agencies that would have
14 jurisdiction over the proposed electric transmission line or
15 powerplant and related facilities, but for the exclusive jurisdiction
16 of the secretary, shall provide their final comments, determinations,
17 or opinions within 100 days after the filing of the application. The
18 regional water quality control boards, as established pursuant to
19 Chapter 4 (commencing with Section 13200) of Division 7 of the
20 Water Code, shall retain jurisdiction over any applicable water
21 quality standard that is incorporated into a final certification issued
22 pursuant to this chapter.

23 (d) To implement this section, the commission may adopt
24 emergency regulations in accordance with Chapter 3.5
25 (commencing with Section 11340) of Part 2 of Division 3 of Title
26 2 of the Government Code. For purposes of that chapter, including
27 without limitation, Section 11349.6 of the Government Code, the
28 adoption of the regulations shall be considered by the Office of
29 Administrative Law to be necessary for the immediate preservation
30 of the public peace, health, safety, and general welfare.

31 SEC. 219. Section 25601 of the Public Resources Code is
32 amended to read:

33 25601. The department shall develop and coordinate a program
34 of research and development in energy supply, consumption, and
35 conservation and the technology of siting facilities and shall give
36 priority to those forms of research and development that are of
37 particular importance to the state, including, but not limited to, all
38 of the following:

39 (a) Methods of energy conservation specified in Chapter 5
40 (commencing with Section 25400).

1 (b) Increased energy use efficiencies of existing thermal electric
2 and hydroelectric powerplants and increased energy efficiencies
3 in designs of thermal electric and hydroelectric powerplants.

4 (c) Expansion and accelerated development of alternative
5 sources of energy, including geothermal and solar resources,
6 including, but not limited to, participation in large-scale
7 demonstrations of alternative energy systems sited in California
8 in cooperation with federal agencies, regional compacts, other
9 state governments, and other participants. For purposes of this
10 subdivision, "participation" shall be defined as any of the
11 following: (1) direct interest in a project, (2) research and
12 development to insure acceptable resolution of environment and
13 other impacts of alternative energy systems, (3) research and
14 development to improve siting and permitting methodology for
15 alternative energy systems, (4) experiments utilizing the alternative
16 energy systems, and (5) research and development of appropriate
17 methods to insure the widespread utilization of economically useful
18 alternative energy systems. Large-scale demonstrations of
19 alternative energy systems are exemplified by the 100KW_e to
20 100MW_e range demonstrations of solar, wind, and geothermal
21 systems contemplated by federal agencies, regional compacts,
22 other state governments, and other participants.

23 (d) Improved methods of construction, design, and operation
24 of facilities to protect against seismic hazards.

25 (e) Improved methods of energy-demand forecasting.

26 (f) To accomplish the purposes of subdivision (c), an amount
27 not more than one-half of the total state funds appropriated for the
28 solar energy research and development program as proposed in
29 the budget shall be allocated for large-scale demonstration of
30 alternative energy systems.

31 SEC. 220. Section 25602 of the Public Resources Code is
32 amended to read:

33 25602. The department shall carry out technical assessment
34 studies on all forms of energy and energy-related problems, in
35 order to influence federal research and development priorities and
36 to be informed on future energy options and their impacts,
37 including, in addition to those problems specified in Section 25601,
38 but not limited to, the following:

39 (a) Advanced nuclear powerplant concepts, fusion, and fuel
40 cells.

- 1 (b) Total energy concepts.
- 2 (c) New technology related to coastal and offshore siting of
- 3 facilities.
- 4 (d) Expanded use of wastewater as cooling water and other
- 5 advances in powerplant cooling.
- 6 (e) Improved methods of power transmission to permit interstate
- 7 and interregional transfer and exchange of bulk electric power.
- 8 (f) Measures to reduce wasteful and inefficient uses of energy.
- 9 (g) Shifts in transportation modes and changes in transportation
- 10 technology in relation to implications for energy consumption.
- 11 (h) Methods of recycling, extraction, processing, fabricating,
- 12 handling, or disposing of materials, especially materials which
- 13 require large commitments of energy.
- 14 (i) Expanded recycling of materials and its effect on energy
- 15 consumption.
- 16 (j) Implications of government subsidies and taxation and
- 17 ratesetting policies.
- 18 (k) Utilization of waste heat.
- 19 (l) Use of hydrogen as an energy form.
- 20 (m) Use of agricultural products, municipal wastes, and organic
- 21 refuse as an energy source.
- 22 These assessments may also be conducted in order to determine
- 23 which energy systems among competing technologies are most
- 24 compatible with standards established pursuant to this division.
- 25 SEC. 221. Section 25603 of the Public Resources Code is
- 26 amended to read:
- 27 25603. For research purposes, the department shall, in
- 28 cooperation with other state agencies, participate in the design,
- 29 construction, and operation of energy-conserving buildings using
- 30 data developed pursuant to Section 25401, in order to demonstrate
- 31 the economic and technical feasibility of the designs.
- 32 SEC. 222. Section 25603.5 of the Public Resources Code is
- 33 amended to read:
- 34 25603.5. (a) Pursuant to the duties of the department described
- 35 in paragraph (1) of subdivision (a) of Section 25401 and Section
- 36 25603, the department shall conduct a statewide architectural
- 37 design competition to select outstanding designs for new
- 38 single-family and multifamily residential units that incorporate
- 39 passive solar and other energy-conserving design features.

The purpose of the competition, to be known as the “State Solar Medallion Passive Design Competition”, is to demonstrate the technical and economic feasibility of passive solar design for residential construction, to speed its commercialization, and to promote its use by developers in housing for moderate-income families in the state. The competition shall be carried out with the assistance and cooperation of the Office of the State Architect.

(b) The competition shall be conducted for each of the state’s six regional climate zones. Each climate zone shall have the following four categories of competition:

(1) Single-family dwellings. The construction costs of these dwellings shall not exceed thirty-five thousand dollars (\$35,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed fifty-five thousand dollars (\$55,000). However, if the department determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the department may increase these sums by the amount of that inflation as indicated by the construction cost index.

(2) Single-family dwellings. The construction costs of these dwellings shall not exceed fifty-five thousand dollars (\$55,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed eighty-five thousand dollars (\$85,000). However, if the department determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the department may increase these sums by the amount of such inflation as indicated by the construction cost index.

(3) Multifamily housing units with a market price or rental value comparable to paragraph (1).

(4) Multifamily housing units with a market price or rental value comparable to paragraph (2).

(c) In order to qualify for the competition, entrants shall be a team composed of at least one member from each of the following categories:

(1) A building designer or architect.

(2) A builder, developer, or contractor.

(d) With submission of designs to the competition, all entrants shall agree to comply with the following provisions, if awarded the Solar Medallion or the first place prize in any category:

1 (1) To build five models of the winning design for single-family
2 home categories if the builder, developer, or contractor member
3 of the winning team constructed more than 30 single-family
4 detached units during the one-year period ending on the date of
5 the award, or

6 (2) To build three models of the winning design for single-family
7 home categories if the builder, developer, or contractor member
8 of the winning team constructed 30 or fewer single-family detached
9 units during the one-year period ending on the date of the award,
10 or

11 (3) To build one model of the winning design for all multifamily
12 categories.

13 (4) To commence construction within 18 months of the
14 announcement of awards.

15 (5) To permit the department to install monitoring equipment
16 for measuring energy conservation performance of the structure
17 on all models constructed in compliance with paragraphs (1), (2),
18 and (3).

19 (6) To permit the department to document, exhibit, and publicize
20 the constructed designs.

21 All models of winning designs shall be built on the site or sites
22 described in the submission or on an alternate site or sites with
23 comparable features.

24 Cash awards to authors of the winning designs may be made
25 prior to commencement of the agreed upon construction.

26 All winning designs in the competition shall become the property
27 of the state and may be published and exhibited by the state after
28 completion of competition.

29 (e) The judging panel for the competition shall consist of the
30 following five jurors:

31 (1) One representative of the Division of the State Architect.

32 (2) One representative of the department.

33 (3) One certificated architect.

34 (4) One representative of the state's lending institutions.

35 (5) One developer, builder, or contractor.

36 The nonagency members shall be appointed by the State
37 Architect.

38 (f) (1) In recognition of the wide variation in construction costs
39 statewide, and in order to ensure fair and equitable competition in
40 all areas of the state, a cost index shall be used to determine

1 different construction cost and market price requirements for each
2 category of competition in the major metropolitan areas of the
3 state. The construction cost and market price figures specified in
4 paragraphs (1) and (2) of subdivision (b) shall be used as the upper
5 limit values on which the index shall be based. Construction cost
6 and market price figures reflecting the diversity in costs in different
7 areas of the state shall be determined in relation to upper limit
8 values specified in this section.

9 (2) The cost index shall be prepared by the Office of the State
10 Architect and shall be published in the competition program.

11 (g) The evaluation shall take place in two stages, with an initial
12 technical review by the department staff. The staff shall submit to
13 the judging panel a rigorous technical assessment of the anticipated
14 energy conservation performance of all submissions. Final selection
15 shall be made by the judging panel.

16 (h) Designs submitted to the competition shall be judged on the
17 extent to which they satisfy the following criteria:

18 (1) Use of passive solar and other energy conserving design
19 features.

20 (2) Amount of energy savings achieved by the design.

21 (3) Adaptability of the design to widespread use.

22 (i) The department shall be responsible for developing rules and
23 procedures for the conduct of the competition and for the judging,
24 which rules shall ensure anonymity of designs submitted prior to
25 final awarding of prizes, shall ensure impartiality of the judging
26 panel, and shall ensure uniform treatment of competitors.

27 (j) In administering the competition, the department shall
28 accomplish the following tasks:

29 (1) Preparation of a competition program, including
30 climatological data for each of the six regional climate zones.

31 (2) Distribution of competition information and ongoing
32 publicity.

33 (3) Development of rules and procedures for competitors and
34 judges.

35 (4) Preparation of a summary document for the competition,
36 including a portfolio of winning designs and followup publicity.

37 (5) Instrumentation of winning dwellings constructed in
38 accordance with requirements of this section, instrumentation for
39 measurement of energy conservation performance of the units,
40 and ongoing data collection.

1 For purposes of administering the competition, the department
2 shall contract with the Division of the State Architect for materials
3 and services that cannot be performed by its staff.

4 (k) Cash awards to authors of the winning designs shall be made
5 on the following basis:

6 (l) Using the criteria in subdivision (e) of this section, the
7 judging panel shall select, as follows:

8 (1) The most outstanding design statewide selected from among
9 the first place winners in either of two single-family categories in
10 any of the six climate zones which shall receive the State Solar
11 Medallion Award and five thousand dollars (\$5,000) in addition
12 to the cash award specified in paragraph (3) of this subdivision.

13 (2) The most outstanding design statewide selected from among
14 the first place winners in either of the two multifamily categories
15 in any of the six climate zones which shall receive the State Solar
16 Medallion Award and five thousand dollars (\$5,000) in addition
17 to the cash award specified in paragraph (3) of this subdivision.

18 (3) The first place designs in each of the four competition
19 categories within each of the six climate zones, which shall each
20 receive a cash award of five thousand dollars (\$5,000).

21 (4) The second place designs in each of the four competition
22 categories within each of the six climate zones, which shall each
23 receive a cash award of two thousand dollars (\$2,000).

24 SEC. 223. Section 25608 of the Public Resources Code is
25 amended to read:

26 25608. The department shall confer with officials of federal
27 agencies, including the National Aeronautics and Space
28 Administration, the National Institute of Standards and Technology,
29 the Department of Energy, and the Department of Housing and
30 Urban Development, to coordinate the adoption of regulations
31 pursuant to Sections 25603 and 25605.

32 SEC. 224. Section 25610 of the Public Resources Code is
33 amended to read:

34 25610. For purposes of carrying out the provisions of this
35 chapter, the department may contract with any person for materials
36 and services that cannot be performed by its staff or other state
37 agencies, and may apply for federal grants or any other funding.

38 SEC. 225. Section 25616 of the Public Resources Code is
39 amended to read:

1 25616. (a) It is the intent of the Legislature to encourage local
2 agencies to expeditiously review permit applications to site energy
3 projects, and to encourage energy project developers to consider
4 all cost-effective and environmentally superior alternatives that
5 achieve their project objectives.

6 (b) Subject to the availability of funds appropriated therefor,
7 the department shall provide technical assistance and grants-in-aid
8 to assist local agencies to do either or both of the following:

9 (1) Site energy production or transmission projects that are not
10 otherwise subject to Chapter 6 (commencing with Section 25500).

11 (2) Integrate into their planning processes, and incorporate into
12 their general plans, methods to achieve cost-effective energy
13 efficiency.

14 (c) The department shall provide assistance at the request of
15 local agencies.

16 (d) As used in this section, an energy project is any project
17 designed to produce, convert, or transmit energy as one of its
18 primary functions.

19 SEC. 226. Section 25617 of the Public Resources Code is
20 amended to read:

21 25617. (a) It is the intent of the Legislature to preserve
22 diversity of energy resources, including diversity of resources used
23 in electric generation facilities, industrial and commercial
24 applications, and transportation.

25 (b) The department shall, within the limits of available funds,
26 provide technical assistance and support for the development of
27 petroleum diesel fuels that are as clean or cleaner than alternative
28 clean fuels and clean diesel engines. That technical assistance and
29 support may include the creation of research, development, and
30 demonstration programs.

31 SEC. 227. Section 25618 of the Public Resources Code is
32 amended to read:

33 25618. (a) The department shall facilitate development and
34 commercialization of ultra low- and zero-emission electric vehicles
35 and advanced battery technologies, as well as development of an
36 infrastructure to support maintenance and fueling of those vehicles
37 in California. Facilitating commercialization of ultra low- and
38 zero-emission electric vehicles in California shall include, but not
39 be limited to, the following:

(1) The department may, in cooperation with county, regional, and city governments, the state's public and private utilities, and the private business sector, develop plans for accelerating the introduction and use of ultra low- and zero-emission electric vehicles throughout California's air quality nonattainment areas, and for accelerating the development and implementation of the necessary infrastructure to support the planned use of those vehicles in California. These plans shall be consistent with, but not limited to, the criteria for similar efforts contained in federal loan, grant, or matching fund projects.

(2) In coordination with other state agencies, the department shall seek to maximize the state's use of federal programs, loans, and matching funds available to states for ultra low- and zero-emission electric vehicle development and demonstration programs, and infrastructure development projects.

(b) Priority for implementing demonstration projects under this section shall be directed toward those areas of the state currently in a nonattainment status with federal and state air quality regulations.

SEC. 228. Section 25620 of the Public Resources Code is amended to read:

25620. The Legislature hereby finds and declares all of the following:

(a) It is in the best interests of the people of this state that the quality of life of its citizens be improved by providing environmentally sound, safe, reliable, and affordable energy services and products.

(b) To improve the quality of life of this state's citizens, it is proper and appropriate for the state to undertake public interest energy research, development, and demonstration projects that are not adequately provided for by competitive and regulated energy markets.

(c) Public interest energy research, demonstration, and development projects should advance energy science or technologies of value to California citizens and should be consistent with the policies of this chapter.

(d) It is in the best interest of the people of California for the department and the commission to positively contribute to the overall economic climate of the state within the roles and responsibilities of the department and the commission as defined

1 by statute, regulation, and other official government authority,
2 including, but not limited to, providing economic benefits to
3 California-based entities.

4 SEC. 229. Section 25620.1 of the Public Resources Code is
5 amended to read:

6 25620.1. (a) The department shall develop, implement, and
7 administer the Public Interest Research, Development, and
8 Demonstration Program that is hereby created. The program shall
9 include a full range of research, development, and demonstration
10 activities that, as determined by the department, are not adequately
11 provided for by competitive and regulated markets. The department
12 shall administer the program consistent with the policies of this
13 chapter.

14 (b) The general goal of the program is to develop, and help bring
15 to market, energy technologies that provide increased
16 environmental benefits, greater system reliability, and lower system
17 costs, and that provide tangible benefits to electric utility customers
18 through the following investments:

19 (1) Advanced transportation technologies that reduce air
20 pollution and greenhouse gas emissions beyond applicable
21 standards, and that benefit electricity and natural gas ratepayers.

22 (2) Increased energy efficiency in buildings, appliances, lighting,
23 and other applications beyond applicable standards, and that benefit
24 electric utility customers.

25 (3) Advanced electricity generation technologies that exceed
26 applicable standards to increase reductions in greenhouse gas
27 emissions from electricity generation, and that benefit electric
28 utility customers.

29 (4) Advanced electricity technologies that reduce or eliminate
30 consumption of water or other finite resources, increase use of
31 renewable energy resources, or improve transmission or distribution
32 of electricity generated from renewable energy resources.

33 (c) To achieve the goals established in subdivision (b), the
34 department shall adopt a portfolio approach for the program that
35 does all of the following:

36 (1) Effectively balances the risks, benefits, and time horizons
37 for various activities and investments that will provide tangible
38 energy or environmental benefits for California electricity
39 customers.

(2) Emphasizes innovative energy supply and end use technologies, focusing on their reliability, affordability, and environmental attributes.

(3) Includes projects that have the potential to enhance transmission and distribution capabilities.

(4) Includes projects that have the potential to enhance the reliability, peaking power, and storage capabilities of renewable energy.

(5) Demonstrates a balance of benefits to all sectors that contribute to the funding under Section 399.8 of the Public Utilities Code.

(6) Addresses key technical and scientific barriers.

(7) Demonstrates a balance between short-term, mid-term, and long-term potential.

(8) Ensures that prior, current, and future research not be unnecessarily duplicated.

(9) Provides for the future market utilization of projects funded through the program.

(10) Ensures an open project selection process and encourages the awarding of research funding for a diverse type of research as well as a diverse award recipient base and equally considers research proposals from the public and private sectors.

(11) Coordinates with other related research programs.

(d) The term “award,” as used in this chapter, may include, but is not limited to, contracts, grants, interagency agreements, loans, and other financial agreements designed to fund public interest research, demonstration, and development projects or programs.

SEC. 230. Section 25620.2 of the Public Resources Code is amended to read:

25620.2. (a) To ensure the efficient implementation and administration of the Public Interest Research, Development, and Demonstration Program, the department shall do both of the following:

(1) Develop procedures for the solicitation of award applications for project or program funding, and to ensure efficient program management.

(2) Evaluate and select programs and projects, based on merit, that will be funded under the program.

(b) The department shall adopt regulations to implement the program, in accordance with the following procedures:

1 (1) Prepare a preliminary text of the proposed regulation and
2 provide a copy of the preliminary text to any person requesting a
3 copy.

4 (2) Provide public notice of the proposed regulation to any
5 person who has requested notice of the regulations prepared by
6 the department. The notice shall contain all of the following:

7 (A) A clear overview explaining the proposed regulation.

8 (B) Instructions on how to obtain a copy of the proposed
9 regulations.

10 (C) A statement that if a public hearing is not scheduled for the
11 purpose of reviewing a proposed regulation, any person may
12 request, not later than 15 days prior to the close of the written
13 comment period, a public hearing conducted in accordance with
14 department procedures.

15 (3) Accept written public comments for 30 calendar days after
16 providing the notice required in paragraph (2).

17 (4) Certify that all written comments were read and considered
18 by the department.

19 (5) Place all written comments in a record that includes copies
20 of any written factual support used in developing the proposed
21 regulation, including written reports and copies of any transcripts
22 or minutes in connection with any public hearings on the adoption
23 of the regulation. The record shall be open to public inspection
24 and available to the courts.

25 (6) Provide public notice of any substantial revision of the
26 proposed regulation at least 15 days prior to the expiration of the
27 deadline for public comments and comment period using the
28 procedures provided in paragraph (2).

29 (7) Conduct public hearings, if a hearing is requested by an
30 interested party, that shall be conducted in accordance with
31 department procedures.

32 (8) Adopt any proposed regulation at a regularly scheduled and
33 noticed meeting of the department. The regulation shall become
34 effective immediately unless otherwise provided by the department.

35 (9) Publish any adopted regulation in a manner that makes copies
36 of the regulation easily available to the public. Any adopted
37 regulation shall also be made available on the Internet. The
38 department shall transmit a copy of an adopted regulation to the
39 Office of Administrative Law for publication, or, if the department

1 determines that printing the regulation is impractical, an appropriate
2 reference as to where a copy of the regulation may be obtained.

3 (10) Notwithstanding any other provision of law, this
4 subdivision provides an interim exception from the requirements
5 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
6 Division 3 of Title 2 of the Government Code for regulations
7 required to implement Sections 25620.1 and this Section that are
8 adopted under the procedures specified in this subdivision.

9 (11) This subdivision shall become inoperative on January 1,
10 2012, unless a later enacted statute deletes or extends that date.
11 However, after January 1, 2012, the department is not required to
12 repeat any procedural step in adopting a regulation that has been
13 completed before January 1, 2012, using the procedures specified
14 in this subdivision.

15 SEC. 231. Section 25620.3 of the Public Resources Code is
16 amended to read:

17 25620.3. (a) The department may, consistent with the
18 requirements of this chapter, provide awards to any individual or
19 entity for planning, implementation, and administration of projects
20 or programs selected pursuant to Section 25620.5.

21 (b) The department may provide an award to a project or
22 program that includes a group of related projects, or to a party who
23 aggregates projects that directly benefit from the award.

24 (c) The department may establish multiparty agreements. In a
25 multiparty agreement, the department may be a signatory to a
26 common agreement among two or more parties. These agreements
27 include, but are not limited to, cofunding, leveraged research,
28 collaborations, and membership arrangements. If the department
29 enters into these agreements, it shall be a party to these agreements
30 and may share in the roles, responsibilities, risks, investments, and
31 results.

32 (d) The department may issue awards that include the ability to
33 make advance payments to prime contractors, to enable them to
34 make advance payments to a subcontractor that is a federal agency,
35 national laboratory, or state entity, on the condition that the
36 subcontract is binding and enforceable and includes specific
37 performance milestones.

38 (e) The department may issue awards that include the ability to
39 assign tasks on a work authorization basis.

1 (f) Prior to making any award pursuant to this chapter for a
2 research, development, or demonstration program or project, the
3 department shall identify the expected costs and any qualitative
4 or quantitative benefits of the proposed program or project.

5 SEC. 232. Section 25620.4 of the Public Resources Code is
6 amended to read:

7 25620.4. (a) To the extent that intellectual property is
8 developed under this chapter, an equitable share of rights in that
9 intellectual property or in the benefits derived from that intellectual
10 property shall accrue to the State of California.

11 (b) The department may determine what share, if any, of the
12 intellectual property, or the benefits derived from the intellectual
13 property, shall accrue to the state. The commission may negotiate
14 sharing mechanisms for intellectual property or benefits with award
15 recipients.

16 SEC. 233. Section 25620.5 of the Public Resources Code is
17 amended to read:

18 25620.5. (a) The department may solicit applications for
19 awards using a sealed competitive bid, competitive negotiation
20 process, department-issued intradepartmental master agreement,
21 the methods for selection of professional services firms set forth
22 in Chapter 10 (commencing with Section 4525) of Division 5 of
23 Title 1 of the Government Code, interagency agreement, single
24 source, or sole source method. When scoring teams are convened
25 to review and score proposals, the scoring teams may include
26 persons not employed by the department, as long as employees of
27 the state constitute no less than 50 percent of the membership of
28 the scoring team. A person participating on a scoring team may
29 not have any conflict of interest with respect to the proposal before
30 the scoring team.

31 (b) A sealed bid method may be used when goods and services
32 to be acquired can be described with sufficient specificity so that
33 bids can be evaluated against specifications and criteria set forth
34 in the solicitation for bids.

35 (c) The department may use a competitive negotiation process
36 in any of the following circumstances:

37 (1) Whenever the desired award is not for a fixed price.

38 (2) Whenever project specifications cannot be drafted in
39 sufficient detail so as to be applicable to a sealed competitive bid.

1 (3) Whenever there is a need to compare the different price,
2 quality, and structural factors of the bids submitted.

3 (4) Whenever there is a need to afford bidders an opportunity
4 to revise their proposals.

5 (5) Whenever oral or written discussions with bidders
6 concerning the technical and price aspects of their proposals will
7 provide better results to the state.

8 (6) Whenever the price of the award is not the determining
9 factor.

10 (d) The department may establish interagency agreements.

11 (e) The department may provide awards on a single source basis
12 by choosing from among two or more parties or by soliciting
13 multiple applications from parties capable of supplying or
14 providing similar goods or services. The cost to the state shall be
15 reasonable and the department may only enter into a single source
16 agreement with a particular party if the department determines that
17 it is in the state's best interests.

18 (f) The department, in accordance with subdivision (g) and in
19 consultation with the Department of General Services, may provide
20 awards on a sole source basis when the cost to the state is
21 reasonable and the department makes any of the following
22 determinations:

23 (1) The proposal was unsolicited and meets the evaluation
24 criteria of this chapter.

25 (2) The expertise, service, or product is unique.

26 (3) A competitive solicitation would frustrate obtaining
27 necessary information, goods, or services in a timely manner.

28 (4) The award funds the next phase of a multiphased proposal
29 and the existing agreement is being satisfactorily performed.

30 (5) When it is determined by the department to be in the best
31 interests of the state.

32 (g) The department may not use a sole source basis for an award
33 pursuant to subdivision (f), unless both of the following conditions
34 are met:

35 (1) The department, at least 60 days prior to taking an action
36 pursuant to subdivision (f), notifies the Joint Legislative Budget
37 Committee and the relevant policy committees in both houses of
38 the Legislature, in writing, of its intent to take the proposed action.

1 (2) The Joint Legislative Budget Committee either approves or
2 does not disapprove the proposed action within 60 days from the
3 date of notification required by paragraph (1).

4 (h) The department shall give priority to California-based entities
5 in making awards pursuant to this chapter.

6 (i) The provisions of this section are severable. If any provision
7 of this section or its application is held to be invalid, that invalidity
8 does not affect other provisions or applications that can be given
9 effect without the invalid provision or application.

10 For purposes of this Section and Section 25620,
11 “California-based entity” means either of the following:

12 A corporation or other business form organized for the
13 transaction of business that has its headquarters in California and
14 manufactures in California the product that qualifies for the
15 incentive or award, or a corporation or other business form
16 organized for the transaction of business that has an office for the
17 transaction of business in California and substantially manufactures
18 in California the product that qualifies for the incentive or award,
19 or substantially develops within California the research that
20 qualifies for the incentive or award, as determined by the agency
21 issuing the incentive or award.

22 SEC. 234. Section 25620.6 of the Public Resources Code is
23 amended to read:

24 25620.6. The department, in consultation with the Department
25 of General Services, may purchase insurance coverage necessary
26 to implement an award. Funding for the purchase of insurance may
27 be made from money in the Public Interest Research, Development,
28 and Demonstration Fund created pursuant to Section 384 of the
29 Public Utilities Code.

30 SEC. 235. Section 25620.7 of the Public Resources Code is
31 amended to read:

32 25620.7. (a) The department may contract for, or through
33 interagency agreement obtain, technical, scientific, or
34 administrative services or expertise from one or more entities, to
35 support the program. Funding for this purpose shall be made from
36 money in the Public Interest Research, Development, and
37 Demonstration Fund.

38 (b) The department may select the services or expertise
39 described in subdivision (a), pursuant to Section 25620.5. In the
40 event that contracts or interagency agreements have been made to

multiple entities and their subcontractors for similar purposes, the department may select from among those entities the particular expertise needed for a specified type of work. Selection of the particular expertise may be based solely on a review of qualifications, including the specific expertise required, availability of the expertise, or access to a resource of special relevance to the work, including, but not limited to, a database, model, technical facility, or a collaborative or institutional affiliation that will expedite the quality and performance of the work.

SEC. 236. Section 25620.8 of the Public Resources Code is amended to read:

25620.8. The department shall prepare and submit to the Legislature an annual report, not later than March 31 of each year, on awards made pursuant to this chapter and progress toward achieving the goals set forth in Section 25620.1. The report shall include information on the names of award recipients, the amount of awards, and the types of projects funded, an evaluation of the success of funded projects, and recommendations for improvements in the program. The report shall set forth the actual costs of programs or projects funded by the department, the results achieved, and how the actual costs and results compare to the expected costs and benefits. The department shall establish procedures for protecting confidential or proprietary information and shall consult with all interested parties in the preparation of the annual report.

SEC. 237. Section 25620.11 of the Public Resources Code is amended to read:

25620.11. (a) The department shall regularly convene an advisory board that shall make recommendations to guide the department's selection of programs and projects to be funded under this chapter. The advisory board shall include as appropriate, but not be limited to, representatives from the Public Utilities Commission, consumer organizations, environmental organizations, and electrical corporations subject to the funding requirements of Section 381 of the Public Utilities Code.

(b) Three members of the Senate, appointed by the Senate President Pro Tempore, and three members of the Assembly, appointed by the Speaker of the Assembly, may meet with the advisory board and participate in its activities to the extent that

1 this participation is not incompatible with their respective positions
2 as Members of the Legislature.

3 SEC. 238. Section 25630 of the Public Resources Code is
4 amended to read:

5 25630. (a) The department shall establish a small business
6 energy assistance low-interest revolving loan program to fund the
7 purchase of equipment for alternative technology energy projects
8 for California's small businesses.

9 (b) Loan repayments, interest, and royalties shall be deposited
10 in the Energy Technologies Research, Development, and
11 Demonstration Account. The interest rate shall be based on surveys
12 of existing financial markets and at rates not lower than the Pooled
13 Money Investment Account.

14 SEC. 239. Section 25678 of the Public Resources Code is
15 amended to read:

16 25678. The department shall establish a grant program that
17 provides a forty cent (\$0.40) per gallon production incentive for
18 liquid fuels fermented in this state from biomass and
19 biomass-derived resources produced in this state. Eligible liquid
20 fuels include, but are not limited to, ethanol, methanol, and
21 vegetable oils. Eligible biomass resources include, but are not
22 limited to, agricultural products and byproducts, forestry products
23 and byproducts, and industrial wastes. The department shall adopt
24 rules and regulations necessary to implement the program. Prior
25 to determining an applicant eligible for participation in the
26 production incentive program, the department shall find, among
27 other things, that the production techniques employed will lead to
28 a net increase in the amount of energy available for consumption.

29 SEC. 240. Section 25679 of the Public Resources Code is
30 amended to read:

31 25679. Applicants for a grant under this chapter shall submit
32 an application on a form prescribed by the department, which is
33 responsible for administration of the program.

34 SEC. 241. Section 25696 of the Public Resources Code is
35 amended to read:

36 25696. The department may assist California-based energy
37 technology and energy conservation firms to export their
38 technologies, products, and services to international markets.

39 The department may do all of the following:

(a) Conduct a technical assistance program to help California energy companies improve export opportunities and enhance foreign buyers' awareness of and access to energy technologies and services offered by California-based companies. Technical assistance activities may include, but are not limited to, an energy technology export information clearinghouse, a referral service, trade lead service consulting services for financing, market evaluation, and legal counseling, and information seminars.

(b) Perform research studies and solicit technical advice to identify international market opportunities.

(c) Assist California energy companies to evaluate project or site-specific energy needs of international markets.

(d) Assist California energy companies to identify and address international trade barriers restricting energy technology exports, including unfair trade practices and discriminatory trade laws.

(e) Develop promotional materials in conjunction with California energy companies to expand energy technology exports.

(f) Establish technical exchange programs to increase foreign buyers' awareness of suitable energy technology uses.

(g) Prepare equipment performance information to enhance potential export opportunities.

(h) Coordinate activities with state, federal, and international donor agencies to take advantage of trade promotion and financial assistance efforts offered.

SEC. 242. Section 25696.5 of the Public Resources Code is amended to read:

25696.5. (a) Every California-based energy technology and energy conservation firm awarded direct financial assistance pursuant to Section 25696 shall reimburse the department for that assistance, when both of the following conditions have been met:

(1) The assistance was substantial and essential for the completion of a specific identifiable project.

(2) The resulting project is producing revenues.

(b) All moneys appropriated for purposes of this chapter and all moneys received by the department as reimbursement under this section shall be deposited in the Energy Resources Programs Account and shall be available, when appropriated by the Legislature, for the purposes of this chapter.

SEC. 243. Section 25697 of the Public Resources Code is amended to read:

1 25697. The department shall consult with the California State
2 World Trade Commission with respect to conducting overseas
3 trade missions, trade shows, and trade exhibits. Consultation may
4 include interagency agreements, cosponsorship, and memoranda
5 of understanding for joint overseas trade activities.

6 SEC. 244. Section 25700 of the Public Resources Code is
7 amended to read:

8 25700. The department shall, in accordance with this chapter,
9 develop contingency plans to deal with possible shortages of
10 electrical energy or fuel supplies to protect public health, safety,
11 and welfare.

12 SEC. 245. Section 25701 of the Public Resources Code is
13 amended to read:

14 25701. (a) Within six months after the effective date of this
15 division, each electric utility, gas utility, and fuel wholesaler or
16 manufacturer in the state shall prepare and submit to the department
17 a proposed emergency load curtailment plan or emergency energy
18 supply distribution plan setting forth proposals for identifying
19 priority loads or users in the event of a sudden and serious shortage
20 of fuels or interruption in the generation of electricity.

21 (b) The department shall encourage electric utilities to cooperate
22 in joint preparation of an emergency load curtailment plan or
23 emergency energy distribution plan. If this cooperative plan is
24 developed between two or more electric utilities, the utilities may
25 submit the joint plans to the department in place of individual plans
26 required by subdivision (a) of this section.

27 (c) The department shall collect from all relevant governmental
28 agencies, including, but not limited to, the Public Utilities
29 Commission and the Office of Emergency Services, any existing
30 contingency plans for dealing with sudden energy shortages or
31 information related thereto.

32 SEC. 246. Section 25702 of the Public Resources Code is
33 amended to read:

34 25702. The department shall, after one or more public hearings,
35 review the emergency load curtailment program plans or
36 emergency energy supply distribution plans submitted pursuant
37 to Section 25701, and, on or before January 6, 1975, the department
38 shall approve and recommend to the Governor and the Legislature
39 plans for emergency load curtailment and energy supply
40 distribution in the event of a sudden energy shortage. Those plans

1 shall be based upon the plans presented by the electric utilities,
2 gas utilities, and fuel wholesalers or manufacturers, information
3 provided by other governmental agencies, independent analysis
4 and study by the department and information provided at the
5 hearing or hearings. Those plans shall provide for the provision
6 of essential services, the protection of public health, safety, and
7 welfare, and the maintenance of a sound basic state economy.
8 Provision shall be made in those plans to eliminate wasteful,
9 uneconomic, and unnecessary uses of energy in times of shortages
10 and to differentiate curtailment of energy consumption by users
11 on the basis of ability to accommodate such curtailments. The
12 plans shall also specify the authority of and recommend the
13 appropriate actions of state and local governmental agencies in
14 dealing with energy shortages.

15 SEC. 247. Section 25703 of the Public Resources Code is
16 amended to read:

17 25703. Within four months after the date of certification of a
18 new facility, the department shall review and revise the
19 recommended plans based on additional new capacity attributed
20 to that facility. The department shall, after one or more public
21 hearings, review the plans at least every five years from the
22 approval of the initial plan as specified in Section 25702.

23 SEC. 248. Section 25704 of the Public Resources Code is
24 amended to read:

25 25704. The department shall carry out studies to determine if
26 potential serious shortages of electrical, natural gas, or other
27 sources of energy are likely to occur and shall make
28 recommendations to the Governor and the Legislature concerning
29 administrative and legislative actions required to avert possible
30 energy supply emergencies or serious fuel shortages, including,
31 but not limited to, energy conservation and energy development
32 measures, to grant authority to specific governmental agencies or
33 officers to take actions in the event of a sudden energy shortage,
34 and to clarify and coordinate existing responsibilities for energy
35 emergency actions.

36 SEC. 249. Section 25705 of the Public Resources Code is
37 amended to read:

38 25705. (a) If the department determines that all reasonable
39 conservation, allocation, and service restriction measures may not
40 alleviate an energy supply emergency, and upon a declaration by

1 the Governor or by an act of the Legislature that a threat to public
2 health, safety, and welfare exists and requires immediate action,
3 the department shall authorize the construction and use of
4 generating facilities under terms and conditions as specified by
5 the department to protect the public interest.

6 (b) Within 60 days after the authorization of construction and
7 use of the generating facilities, the department shall issue a report
8 detailing the full nature, extent, and estimated duration of the
9 emergency situation and making recommendations to the Governor
10 and the Legislature for further energy conservation and energy
11 supply measures to alleviate the emergency situation as alternatives
12 to use of the generating facilities.

13 SEC. 250. Section 25720 of the Public Resources Code is
14 amended to read:

15 25720. (a) By January 31, 2002, the department shall examine
16 the feasibility, including possible costs and benefits to consumers
17 and impacts on fuel prices for the general public, of operating a
18 strategic fuel reserve to insulate California consumers and
19 businesses from substantial short-term price increases arising from
20 refinery outages and other similar supply interruptions. In
21 evaluating the potential operation of a strategic fuel reserve, the
22 department shall consult with other state agencies, including, but
23 not limited to, the State Air Resources Board.

24 (b) The department shall examine and recommend an appropriate
25 level of reserves of fuel, but in no event may the reserve be less
26 than the amount of refined fuel that the department estimates could
27 be produced by the largest California refiner over a two week
28 period. In making this examination and recommendation, the
29 department shall take into account all of the following:

30 (1) Inventories of California-quality fuels or fuel components
31 reasonably available to the California market.

32 (2) Current and historic levels of inventory of fuels.

33 (3) The availability and cost of storage of fuels.

34 (4) The potential for future supply interruptions, price spikes,
35 and the costs thereof to California consumers and businesses.

36 (c) The department shall evaluate a mechanism to release fuel
37 from the reserve that permits any customer to contract at any time
38 for the delivery of fuel from the reserve in exchange for an equal
39 amount of fuel that meets California specifications and is produced
40 from a source outside of California that the customer agrees to

1 deliver back to the reserve within a time period to be established
2 by the department, but not longer than six weeks.

3 (d) The department shall evaluate reserve storage space from
4 existing facilities.

5 (e) The department shall evaluate a reserve operated by an
6 independent operator that specializes in purchasing and storing
7 fuel, and is selected through competitive bidding.

8 (f) (1) Not later than January 31, 2002, the department and the
9 State Air Resources Board, in consultation with the other state and
10 local agencies the department deems necessary, shall develop and
11 adopt recommendations for the Governor and Legislature on a
12 California Strategy to Reduce Petroleum Dependence.

13 (2) The strategy shall include a base case forecast by the
14 department of gasoline, diesel, and petroleum consumption in years
15 2010 and 2020 based on current best estimates of economic and
16 population growth, petroleum base fuel supply and availability,
17 vehicle efficiency, and utilization of alternative fuels and advanced
18 transportation technologies.

19 (3) The strategy shall include recommended statewide goals for
20 reductions in the rate of growth of gasoline and diesel fuel
21 consumption and increased transportation energy efficiency and
22 utilization of nonpetroleum based fuels and advanced transportation
23 technologies, including alternative fueled vehicles, hybrid vehicles,
24 and high fuel efficiency vehicles.

25 (g) The studies required by this section shall be conducted in
26 conjunction with any other studies required by acts enacted during
27 the 2000 portion of the 1999–2000 Regular Session dealing with
28 gasoline prices.

29 SEC. 251. Section 25721 of the Public Resources Code is
30 amended to read:

31 25721. The department shall report its findings and
32 recommendations for purposes of Section 25720 to the Governor,
33 the Legislature, and the Attorney General by January 31, 2002. If
34 the department finds that it would be feasible to operate a strategic
35 gas reserve to insulate California consumers and businesses from
36 substantial, short-term price increases arising from refinery outages
37 or other similar supply interruptions, the department shall request
38 specific statutory authority and funding for establishment of a
39 reserve.

1 SEC. 252. Section 25722 of the Public Resources Code is
2 amended to read:

3 25722. (a) On or before January 31, 2003, the department, the
4 Department of General Services, and the State Air Resources
5 Board, in consultation with any other state agency that the
6 department, the Department of General Services, and the state
7 board deem necessary, shall develop and adopt fuel-efficiency
8 specifications governing the purchase by the state of motor vehicles
9 and replacement tires that, on an annual basis, will reduce
10 petroleum consumption of the state vehicle fleet to the maximum
11 extent practicable and cost effective.

12 (b) In developing the specifications, the department and the
13 Department of General Services shall jointly conduct a study to
14 examine state vehicle purchasing patterns, including the purchase
15 of after market tires, and to analyze the costs and benefits of
16 reducing the energy consumption of the state vehicle fleet by no
17 less than 10 percent on or before January 1, 2005.

18 (c) The study shall include an analysis of all of the following
19 topics:

20 (1) Use of alternative fuels.

21 (2) Use of fuel-efficient vehicles.

22 (3) Costs and benefits of decreasing the size of the state vehicle
23 fleet.

24 (4) Reduction in vehicle trips and increase in use of alternative
25 means of transportation.

26 (5) Improved vehicle maintenance.

27 (6) Costs and benefits of using fuel-efficient tires relative to
28 using retreaded tires, as described in the Retreaded Tire Program,
29 Chapter 7 (commencing with Section 42400) of Part 3 of Division
30 30.

31 (7) The costs and benefits of purchasing high fuel efficiency
32 gasoline vehicles, including hybrid electric vehicles, instead of
33 flexible fuel vehicles.

34 (d) On or before January 31, 2003, and annually thereafter, the
35 commission, the Department of General Services, and the State
36 Air Resources Board, in consultation with any other state agency
37 that the department, the Department of General Services, and the
38 state board deem necessary, shall develop and adopt air pollution
39 emission specifications governing the purchase by the state of
40 passenger cars and light-duty trucks that meet or exceed

1 California's Ultra-Low Emission Vehicle (ULEV) standards for
2 exhaust emissions (13 Cal. Code Regs. 1960.1).

3 (e) If the study described in subdivision (b) determines that
4 lower cost measures exist that deliver petroleum reductions
5 equivalent to applicable federal requirements governing the state
6 purchase of passenger cars and light-duty trucks, the state shall
7 pursue a waiver from those federal requirements.

8 SEC. 253. Section 25722.5 of the Public Resources Code is
9 amended to read:

10 25722.5. (a) In order to achieve the policy objectives set forth
11 in Sections 25000.5 and 25722, the Department of General
12 Services, in consultation with the department and the State Air
13 Resources Board, shall develop and adopt specifications and
14 standards for all passenger cars and light-duty trucks that are
15 purchased or leased on behalf of, or by, state offices, agencies,
16 and departments. An authorized emergency vehicle, as defined in
17 Section 165 of the Vehicle Code, that is equipped with emergency
18 lamps or lights described in Section 25252 of the Vehicle Code is
19 exempt from the requirements of this section. The specifications
20 and standards shall include the following:

21 (1) Minimum air pollution emission specifications that meet or
22 exceed California's Ultra-Low Emission Vehicle II (ULEV II)
23 standards for exhaust emissions (13 Cal. Code Regs. 1961). These
24 specifications shall apply on January 1, 2006, for passenger cars
25 and on January 1, 2010, for light-duty trucks.

26 (2) Notwithstanding any other provision of law, the utilization
27 of procurement policies that enable the Department of General
28 Services to do all of the following:

29 (A) Evaluate and score emissions, fuel costs, and fuel economy
30 in addition to capital cost to enable the Department of General
31 Services to choose the vehicle with the lowest life-cycle cost when
32 awarding a state vehicle procurement contract.

33 (B) Maximize the purchase or lease of hybrid or "Best in Class"
34 vehicles that are substantially more fuel efficient than the class
35 average.

36 (C) Maximize the purchase or lease of available vehicles that
37 meet or exceed California's Super Ultra-Low Emission Vehicle
38 (SULEV) passenger car standards for exhaust emissions.

39 (D) Maximize the purchase or lease of alternative fuel vehicles.

1 (3) In order to discourage the unnecessary purchase or leasing
2 of a sport utility vehicle and a four-wheel drive truck, a requirement
3 that each state office, agency, or department seeking to purchase
4 or lease that vehicle, demonstrate to the satisfaction of the Director
5 of General Services or to the entity that purchases or leases vehicles
6 for that office, agency, or department, that the vehicle is required
7 to perform an essential function of the office, agency, or
8 department. If it is so demonstrated, priority consideration shall
9 be given to the purchase or lease of an alternative fuel or hybrid
10 sports utility vehicle or four-wheel drive vehicle.

11 (b) The specifications and standards developed and adopted
12 pursuant to subdivision (a) do not apply upon the development
13 and implementation of the method, criteria, and procedure
14 described in Section 25722.6.

15 (c) Each state office, agency, and department shall review its
16 vehicle fleet and, upon finding that it is fiscally prudent, cost
17 effective, or otherwise in the public interest to do so, shall dispose
18 of nonessential sport utility vehicles and four-wheel drive trucks
19 in its fleet and replace these vehicles with more fuel-efficient
20 passenger cars and trucks.

21 (d) To the maximum extent practicable, each state office,
22 agency, and department that has bifuel natural gas, bifuel propane,
23 and flex fuel vehicles in its vehicle fleet shall use the respective
24 alternative fuel in those vehicles.

25 (e) The Director of General Services shall compile annually and
26 maintain information on the nature of vehicles that are owned or
27 leased by the state, including, but not limited to, all of the
28 following:

29 (1) The number of passenger-type motor vehicles purchased or
30 leased during the year, and the number owned or leased as of
31 December 31 of each year.

32 (2) The number of sport utility vehicles and four-wheel drive
33 trucks purchased or leased by the state during the year, and the
34 number owned or leased as of December 31 of each year.

35 (3) The number of alternatively fueled vehicles and hybrid
36 vehicles purchased or leased by the state during the year, and the
37 total number owned or leased as of December 31 of each year and
38 their location.

39 (4) The locations of the alternative fuel pumps available for
40 those vehicles.

1 (5) The justification provided for all sport utility vehicles and
2 four-wheel drive trucks purchased or leased by the state and the
3 specific office, department, or agency responsible for the purchase
4 or lease.

5 (6) The number of sport utility vehicles and four-wheel drive
6 trucks purchased or leased by the state during the year, and the
7 number owned or leased as of December 31 of each year that are
8 alternative fuel or hybrid vehicles.

9 (7) The number of light-duty trucks disposed of under
10 subdivision (c).

11 (8) The total dollars spent by the state on passenger-type vehicle
12 purchases and leases, categorized by sport utility vehicle and
13 nonsport utility vehicle, and within each of those categories, by
14 alternative fuel, hybrid and other.

15 (9) The total annual consumption of gasoline and diesel fuel
16 used by the state fleet.

17 (10) The total annual consumption of alternative fuels.

18 (11) On December 31, 2009, and annually thereafter, the
19 Director of General Services shall also compile the total annual
20 vehicle miles traveled by vehicles in the state fleet.

21 (f) Each state office, agency, and department shall cooperate
22 with the Department of General Services' data requests in order
23 that the department may compile and maintain the information
24 required in subdivision (e).

25 (g) As soon as practicable, but no later than 12 months after
26 receiving the data, the information compiled and maintained under
27 subdivision (e) and a list of those state offices, agencies, and
28 departments that are not in compliance with subdivision (f) shall
29 be made available to the public on the Department of General
30 Services' Internet Web site.

31 (h) Beginning July 1, 2009, and every three years thereafter,
32 the Director of General Services shall report to the Legislature and
33 the Governor the information compiled and maintained pursuant
34 to subdivision (e).

35 (i) Pursuant to Article IX of the California Constitution, this
36 section shall not apply to the University of California except to
37 the extent that the Regents of the University of California, by
38 appropriate resolution, make this section applicable.

39 SEC. 254. Section 25723 of the Public Resources Code is
40 amended to read:

1 25723. On or before January 31, 2003, the department, in
2 consultation with any other state agency that the department deems
3 necessary, shall develop and adopt recommendations for
4 consideration by the Governor and the Legislature of a California
5 State Fuel-Efficient Tire Program. The department shall make
6 recommendations on all of the following items:

7 (a) Establishing a test procedure for measuring tire fuel
8 efficiency.

9 (b) Development of a database of fuel efficiency of existing
10 tires in order to establish an accurate baseline of tire efficiency.

11 (c) A rating system for tires that provides consumers with
12 information on the fuel efficiency of individual tire models.

13 (d) A consumer-friendly system to disseminate tire
14 fuel-efficiency information as broadly as possible. The department
15 shall consider labeling, Web site listing, printed fuel economy
16 guide booklets, and mandatory requirements for tire retailers to
17 provide fuel-efficiency information.

18 (e) A study to determine the safety implications, if any, of
19 different policies to promote fuel efficient replacement tires in the
20 consumer market.

21 (f) A mandatory fuel-efficiency standard for all after market
22 tires sold in California.

23 (g) Consumer incentive programs that would offer a rebate to
24 purchasers of replacement tires that are more fuel efficient than
25 the average replacement tire.

26 SEC. 255. Section 25741 of the Public Resources Code is
27 amended to read:

28 25741. As used in this chapter, the following terms have the
29 following meaning:

30 (a) “Delivered” and “delivery” mean the electricity output of
31 an in-state renewable electricity generation facility that is used to
32 serve end-use retail customers located within the state. Subject to
33 verification by the accounting system established by the department
34 pursuant to subdivision (b) of Section 399.13 of the Public Utilities
35 Code, electricity shall be deemed delivered if it is either generated
36 at a location within the state, or is scheduled for consumption by
37 California end-use retail customers. Subject to criteria adopted by
38 the department, electricity generated by an eligible renewable
39 energy resource may be considered “delivered” regardless of

1 whether the electricity is generated at a different time from
2 consumption by a California end-use customer.

3 (b) “In-state renewable electricity generation facility” means a
4 facility that meets all of the following criteria:

5 (1) The facility uses biomass, solar thermal, photovoltaic, wind,
6 geothermal, fuel cells using renewable fuels, small hydroelectric
7 generation of 30 megawatts or less, digester gas, municipal solid
8 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal
9 current, and any additions or enhancements to the facility using
10 that technology.

11 (2) The facility satisfies one of the following requirements:

12 (A) The facility is located in the state or near the border of the
13 state with the first point of connection to the transmission network
14 within this state and electricity produced by the facility is delivered
15 to an in-state location.

16 (B) The facility has its first point of interconnection to the
17 transmission network outside the state and satisfies all of the
18 following requirements:

19 (i) It is connected to the transmission network within the
20 Western Electricity Coordinating Council (WECC) service
21 territory.

22 (ii) It commences initial commercial operation after January 1,
23 2005.

24 (iii) Electricity produced by the facility is delivered to an in-state
25 location.

26 (iv) It will not cause or contribute to any violation of a California
27 environmental quality standard or requirement.

28 (v) If the facility is outside of the United States, it is developed
29 and operated in a manner that is as protective of the environment
30 as a similar facility located in the state.

31 (vi) It participates in the accounting system to verify compliance
32 with the renewables portfolio standard by retail sellers, once
33 established by the department pursuant to subdivision (b) of Section
34 399.13 of the Public Utilities Code.

35 (C) The facility meets the requirements of clauses (i), (iii), (iv),
36 (v), and (vi) in subparagraph (B), but does not meet the
37 requirements of clause (ii) because it commences initial operation
38 prior to January 1, 2005, if the facility satisfies either of the
39 following requirements:

1 (i) The electricity is from incremental generation resulting from
2 expansion or repowering of the facility.

3 (ii) The facility has been part of the existing baseline of eligible
4 renewable energy resources of a retail seller established pursuant
5 to paragraph (2) of subdivision (b) of Section 399.15 of the Public
6 Utilities Code or has been part of the existing baseline of eligible
7 renewable energy resources of a local publicly owned electric
8 utility established pursuant to Section 387 of the Public Utilities
9 Code.

10 (3) For the purposes of this subdivision, “solid waste
11 conversion” means a technology that uses a noncombustion thermal
12 process to convert solid waste to a clean-burning fuel for the
13 purpose of generating electricity, and that meets all of the following
14 criteria:

15 (A) The technology does not use air or oxygen in the conversion
16 process, except ambient air to maintain temperature control.

17 (B) The technology produces no discharges of air contaminants
18 or emissions, including greenhouse gases as defined in Section
19 38505 of the Health and Safety Code.

20 (C) The technology produces no discharges to surface or
21 groundwaters of the state.

22 (D) The technology produces no hazardous wastes.

23 (E) To the maximum extent feasible, the technology removes
24 all recyclable materials and marketable green waste compostable
25 materials from the solid waste stream prior to the conversion
26 process and the owner or operator of the facility certifies that those
27 materials will be recycled or composted.

28 (F) The facility at which the technology is used is in compliance
29 with all applicable laws, regulations, and ordinances.

30 (G) The technology meets any other conditions established by
31 the department.

32 (H) The facility certifies that any local agency sending solid
33 waste to the facility diverted at least 30 percent of all solid waste
34 it collects through solid waste reduction, recycling, and
35 composting. For purposes of this paragraph, “local agency” means
36 any city, county, or special district, or subdivision thereof, which
37 is authorized to provide solid waste handling services.

38 (c) “Procurement entity” means any person or corporation that
39 enters into an agreement with a retail seller to procure eligible

1 renewable energy resources pursuant to subdivision (f) of Section
2 399.14 of the Public Utilities Code.

3 (d) “Renewable energy public goods charge” means that portion
4 of the nonbypassable system benefits charge authorized to be
5 collected and to be transferred to the Renewable Resource Trust
6 Fund pursuant to the Reliable Electric Service Investments Act
7 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part
8 1 of Division 1 of the Public Utilities Code).

9 (e) “Report” means the report entitled “Investing in Renewable
10 Electricity Generation in California” (June 2001, Publication
11 Number P500-00-022) submitted to the Governor and the
12 Legislature by the former State Energy Resources Conservation
13 and Development Commission.

14 (f) “Retail seller” means a “retail seller” as defined in Section
15 399.12 of the Public Utilities Code.

16 SEC. 256. Section 25742 of the Public Resources Code is
17 amended to read:

18 25742. (a) Twenty percent of the funds collected pursuant to
19 the renewable energy public goods charge shall be used for
20 programs that are designed to achieve fully competitive and
21 self-sustaining existing in-state renewable electricity generation
22 facilities, and to secure for the state the environmental, economic,
23 and reliability benefits that continued operation of those facilities
24 will provide during the 2007–2011 investment cycle. Eligibility
25 for production incentives under this section shall be limited to
26 those technologies found eligible for funds by the department
27 pursuant to paragraphs (3), (4), and (6) of subdivision (e) of Section
28 25740.5.

29 (b) Funds used to support in-state renewable electricity
30 generation facilities pursuant to this section shall be expended in
31 accordance with this chapter.

32 (c) Facilities that are eligible to receive funding pursuant to this
33 section shall be registered in accordance with criteria developed
34 by the department and those facilities shall not receive payments
35 for any electricity produced that has any of the following
36 characteristics:

37 (1) Is sold at monthly average rates equal to, or greater than,
38 the applicable target price, as determined by the department.

39 (2) Is used onsite.

1 (d) (1) Existing facilities generating electricity from biomass
2 energy shall be eligible for funding and otherwise considered an
3 in-state renewable electricity generation facility only if they report
4 to the department the types and quantities of biomass fuels used.

5 (2) The department shall report the types and quantities of
6 biomass fuels used by each facility to the Legislature in the reports
7 prepared pursuant to Section 25748.

8 (e) An existing facility seeking an award pursuant to this section
9 shall be evaluated by the department to determine the amount of
10 the funds being sought, the cumulative amount of funds the facility
11 has received previously from the department and other state
12 sources, the value of any past and current federal or state tax
13 credits, the facility's contract price for energy and capacity, the
14 prices received by similar facilities, the market value of the facility,
15 and the likelihood that the award will make the facility competitive
16 and self-sustaining within the 2007–2011 investment cycle. The
17 department shall use this evaluation to determine the value of an
18 award to the public relative to other renewable energy investment
19 alternatives. The department shall compile its findings and report
20 them to the Legislature in the reports prepared pursuant to Section
21 25748.

22 SEC. 257. Section 25743 of the Public Resources Code is
23 amended to read:

24 25743. (a) The department shall terminate all production
25 incentives awarded from the New Renewable Resources Account
26 prior to January 1, 2002, unless the project began generating
27 electricity by January 1, 2007.

28 (b) (1) The department shall, by March 1, 2008, transfer to
29 electrical corporations serving customers subject to the renewable
30 energy public goods charge the remaining unencumbered funds
31 in the New Renewable Resources Account.

32 (2) The Public Utilities Commission shall ensure that each
33 electrical corporation allocates funds received from the department
34 pursuant to paragraph (1) in a manner that maximizes the economic
35 benefit to all customer classes that funded the New Renewable
36 Resources Account.

37 SEC. 258. Section 25744 of the Public Resources Code is
38 amended to read:

39 25744. (a) Seventy-nine percent of the money collected
40 pursuant to the renewable energy public goods charge shall be

1 used for a multiyear, consumer-based program to foster the
2 development of emerging renewable technologies in distributed
3 generation applications.

4 (b) Funds used for emerging technologies pursuant to this
5 section shall be expended in accordance with this chapter, subject
6 to all of the following requirements:

7 (1) Funding for emerging technologies shall be provided through
8 a competitive, market-based process that is in place for a period
9 of not less than five years, and is structured to allow eligible
10 emerging technology manufacturers and suppliers to anticipate
11 and plan for increased sale and installation volumes over the life
12 of the program.

13 (2) The program shall provide monetary rebates, buydowns, or
14 equivalent incentives, subject to paragraph (3), to purchasers,
15 lessees, lessors, or sellers of eligible electricity generating systems.
16 Incentives shall benefit the end-use consumer of renewable
17 generation by directly and exclusively reducing the purchase or
18 lease cost of the eligible system, or the cost of electricity produced
19 by the eligible system. Incentives shall be issued on the basis of
20 the rated electrical generating capacity of the system measured in
21 watts, or the amount of electricity production of the system,
22 measured in kilowatthours. Incentives shall be limited to a
23 maximum percentage of the system price, as determined by the
24 department. The department may establish different incentive
25 levels for systems based on technology type and system size, and
26 may provide different incentive levels for systems used in
27 conjunction with energy-efficiency measures.

28 (3) Eligible distributed emerging technologies are fuel cell
29 technologies that utilize renewable fuels, including fuel cell
30 technologies with an emission profile equivalent or better than the
31 State Air Resources Board 2007 standard, and that serve as backup
32 generation for emergency, safety, or telecommunications systems.
33 Eligible renewable fuels may include wind turbines of not more
34 than 50 kilowatts rated electrical generating capacity per customer
35 site and other distributed renewable emerging technologies that
36 meet the emerging technology eligibility criteria established by
37 the department and are not eligible for rebates, buydowns, or
38 similar incentives from any other commission or Public Utilities
39 Commission program. Eligible electricity generating systems are
40 intended primarily to offset part or all of the consumer's own

1 electricity demand, including systems that are used as backup
2 power for emergency, safety, or telecommunications, and shall
3 not be owned by local publicly owned electric utilities, nor be
4 located at a customer site that is not receiving distribution service
5 from an electrical corporation that is subject to the renewable
6 energy public goods charge and contributing funds to support
7 programs under this chapter. All eligible electricity generating
8 system components shall be new and unused, shall not have been
9 previously placed in service in any other location or for any other
10 application, and shall have a warranty of not less than five years
11 to protect against defects and undue degradation of electrical
12 generation output. Systems and their fuel resources shall be located
13 on the same premises of the end-use consumer where the
14 consumer's own electricity demand is located, and all eligible
15 electricity generating systems shall be connected to the utility grid,
16 unless the system purpose is for backup generation used in
17 emergency, safety, or telecommunications in California. The
18 department may require eligible electricity generating systems to
19 have meters in place to monitor and measure a system's
20 performance and generation. Only systems that will be operated
21 in compliance with applicable law and the rules of the Public
22 Utilities Commission shall be eligible for funding.

23 (4) The department shall limit the amount of funds available
24 for a system or project of multiple systems and reduce the level
25 of funding for a system or project of multiple systems that has
26 received, or may be eligible to receive, any government or utility
27 funds, incentives, or credit.

28 (5) In awarding funding, the department may provide preference
29 to systems that provide tangible demonstrable benefits to
30 communities with a plurality of minority or low-income
31 populations.

32 (6) In awarding funding, the department shall develop and
33 implement eligibility criteria and a system that provides preference
34 to systems based upon system performance, taking into account
35 factors, including shading, insulation levels, and installation
36 orientation.

37 (7) At least once annually, the department shall publish and
38 make available to the public the balance of funds available for
39 emerging renewable energy resources for rebates, buydowns, and
40 other incentives for the purchase of these resources.

1 (c) Notwithstanding Section 27540.5, the department may
2 expend, until December 31, 2008, up to sixty million dollars
3 (\$60,000,000) of the funding allocated to the Renewable Resources
4 Trust Fund for the program established in this section, subject to
5 the repayment requirements of subdivision (f) of Section 25751.

6 (d) Funds for photovoltaic or solar thermal electric technologies
7 shall be awarded in compliance with Chapter 8.8 (commencing
8 with Section 25780), and not with this section.

9 SEC. 259. Section 25747 of the Public Resources Code is
10 amended to read:

11 25747. (a) The department shall adopt guidelines governing
12 the funding programs authorized under this chapter, at a publicly
13 noticed meeting offering all interested parties an opportunity to
14 comment. Substantive changes to the guidelines may not be
15 adopted without at least 10 days' written notice to the public. The
16 public notice of meetings required by this subdivision may not be
17 less than 30 days. Notwithstanding any other provision of law, any
18 guidelines adopted pursuant to this chapter or Section 399.13 of
19 the Public Utilities Code, shall be exempt from the requirements
20 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
21 Division 3 of Title 2 of the Government Code. The Legislature
22 declares that the changes made to this subdivision by the act
23 amending this section during the 2002 portion of the 2001–02
24 Regular Session are declaratory of, and not a change in existing
25 law.

26 (b) Funds to further the purposes of this chapter may be
27 committed for multiple years.

28 (c) Awards made pursuant to this chapter are grants, subject to
29 appeal to the department upon a showing that factors other than
30 those described in the guidelines adopted by the department were
31 applied in making the awards and payments. Any actions taken
32 by an applicant to apply for, or become or remain eligible and
33 registered to receive, payments or awards, including satisfying
34 conditions specified by the department, shall not constitute the
35 rendering of goods, services, or a direct benefit to the department.

36 (d) An award made pursuant to this chapter, the amount of the
37 award, and the terms and conditions of the grant are public
38 information.

39 SEC. 260. Section 25748 of the Public Resources Code is
40 amended to read:

1 25748. (a) The department shall report to the Legislature on
2 or before November 1, 2007, and annually thereafter, regarding
3 the results of the mechanisms funded pursuant to this chapter. The
4 report shall contain all of the following:

5 (1) A description of the allocation of funds among existing,
6 new, and emerging technologies, the allocation of funds among
7 programs, including consumer-side incentives, and the need for
8 the reallocation of money among those technologies.

9 (2) The status of account transfers and repayments.

10 (3) A description of the cumulative commitment of claims by
11 account, the relative demand for funds by account, and a forecast
12 of future awards.

13 (4) A list identifying the types and quantities of biomass fuels
14 used by facilities receiving funds pursuant to Section 25742 and
15 their impacts on improving air quality.

16 (5) A discussion of the progress being made toward achieving
17 the targets established under Section 25740 by each funding
18 category authorized pursuant to this chapter.

19 (6) A description of the allocation of funds from interest on the
20 accounts described in this chapter, and money in the accounts
21 described in subdivision (b) of Section 25751.

22 (7) An itemized list, including project descriptions, award
23 amounts, and outcomes for projects awarded funding in the prior
24 year.

25 (8) Other matters the department determines may be of
26 importance to the Legislature.

27 (b) Money may be reallocated without further legislative action
28 among existing, new, and emerging technologies and
29 consumer-side programs in a manner consistent with the report
30 and with the latest report provided to the Legislature pursuant to
31 this section, except that reallocations shall not increase the
32 allocation established in Section 25742.

33 SEC. 261. Section 25751 of the Public Resources Code is
34 amended to read:

35 25751. (a) The Renewable Resource Trust Fund is hereby
36 created in the State Treasury.

37 (b) The following accounts are hereby established within the
38 Renewable Resource Trust Fund:

39 (1) Existing Renewable Resources Account.

40 (2) Emerging Renewable Resources Account.

1 (3) Renewable Resources Consumer Education Account.

2 (c) The money in the fund may be expended, only upon
3 appropriation by the Legislature in the annual Budget Act, for the
4 following purposes:

5 (1) The administration of this article by the state.

6 (2) The state's expenditures associated with the accounting
7 system established by the commission pursuant to subdivision (b)
8 of Section 399.13 of the Public Utilities Code.

9 (d) That portion of revenues collected by electrical corporations
10 for the benefit of in-state operation and development of existing
11 and new and emerging renewable resource technologies, pursuant
12 to Section 399.8 of the Public Utilities Code, shall be transmitted
13 to the department at least quarterly for deposit in the Renewable
14 Resource Trust Fund pursuant to Section 25740.5. After setting
15 aside in the fund money that may be needed for expenditures
16 authorized by the annual Budget Act in accordance with
17 subdivision (c), the Treasurer shall immediately deposit money
18 received pursuant to this section into the accounts created pursuant
19 to subdivision (b) in proportions designated by the department for
20 the current calendar year. Notwithstanding Section 13340 of the
21 Government Code, the money in the fund and the accounts within
22 the fund are hereby continuously appropriated to the department
23 without regard to fiscal year for the purposes enumerated in this
24 chapter.

25 (e) Upon notification by the department, the Controller shall
26 pay all awards of the money in the accounts created pursuant to
27 subdivision (b) for purposes enumerated in this chapter. The
28 eligibility of each award shall be determined solely by the
29 department based on the procedures it adopts under this chapter.
30 Based on the eligibility of each award, the department shall also
31 establish the need for a multiyear commitment to any particular
32 award and so advise the Department of Finance. Eligible awards
33 submitted by the department to the Controller shall be accompanied
34 by information specifying the account from which payment should
35 be made and the amount of each payment; a summary description
36 of how payment of the award furthers the purposes enumerated in
37 this chapter; and an accounting of future costs associated with any
38 award or group of awards known to the department to represent a
39 portion of a multiyear funding commitment.

1 (f) The department may transfer funds between accounts for
2 cashflow purposes if the balance due each account is restored and
3 the transfer does not adversely affect any of the accounts.

4 (g) The Department of Finance shall conduct an independent
5 audit of the Renewable Resource Trust Fund and its related
6 accounts annually, and provide an audit report to the Legislature
7 not later than March 1 of each year for which this article is
8 operative. The Department of Finance's report shall include
9 information regarding revenues, payment of awards, reserves held
10 for future commitments, unencumbered cash balances, and other
11 matters that the Director of Finance determines may be of
12 importance to the Legislature.

13 SEC. 262. Section 25771 of the Public Resources Code is
14 amended to read:

15 25771. On or before July 1, 2006, the department shall develop
16 and adopt all of the following:

17 (a) A database of the energy efficiency of a representative
18 sample of replacement tires sold in the state, based on test
19 procedures adopted by the commission.

20 (b) Based on the data collected pursuant to subdivision (a), a
21 rating system for the energy efficiency of replacement tires sold
22 in the state, that will enable consumers to make more informed
23 decisions when purchasing tires for their vehicles.

24 (c) Based on the test procedures adopted pursuant to subdivision
25 (a) and the rating system established pursuant to subdivision (b),
26 requirements for tire manufacturers to report to the commission
27 the energy efficiency of replacement tires sold in the state.

28 SEC. 263. Section 25772 of the Public Resources Code is
29 amended to read:

30 25772. On or before July 1, 2007, the department, in
31 consultation with the board, shall, after appropriate notice and
32 workshops, adopt and, on or before July 1, 2008, implement, a tire
33 energy efficiency program of statewide applicability for
34 replacement tires, designed to ensure that replacement tires sold
35 in the state are at least as energy efficient, on average, as tires sold
36 in the state as original equipment on new passenger cars and
37 light-duty trucks.

38 SEC. 264. Section 25773 of the Public Resources Code is
39 amended to read:

1 25773. (a) The program described in Section 25772 shall
2 include all of the following:

3 (1) The development and adoption of minimum energy
4 efficiency standards for replacement tires, except to the extent that
5 the department determines that it is unable to do so in a manner
6 that complies with subparagraphs (A) to (D), inclusive. Energy
7 efficiency standards adopted pursuant to this paragraph shall meet
8 all of the following conditions:

9 (A) Be technically feasible and cost effective.

10 (B) Not adversely affect tire safety.

11 (C) Not adversely affect the average tire life of replacement
12 tires.

13 (D) Not adversely affect state efforts to manage scrap tires
14 pursuant to Chapter 17 (commencing with Section 42860) of Part
15 3 of Division 30.

16 (2) The development and adoption of consumer information
17 requirements for replacement tires for which standards have been
18 adopted pursuant to paragraph (1).

19 (b) The energy efficiency standards established pursuant to
20 paragraph (1) of subdivision (a) shall be based on the results of
21 laboratory testing and, to the extent it is available and deemed
22 appropriate by the department, an onroad fleet testing program
23 developed by tire manufacturers in consultation with the
24 department and the board, conducted by tire manufacturers, and
25 submitted to the department on or before January 1, 2006.

26 (c) If the department finds that tires used to equip an authorized
27 emergency vehicle, as defined in Section 165 of the Vehicle Code,
28 are unable to meet the standards established pursuant to paragraph
29 (1) of subdivision (a), the department shall authorize an operator
30 of an authorized emergency vehicle fleet to purchase for those
31 vehicles tires that do not meet those standards.

32 (d) The department, in consultation with the board, shall review
33 and revise the program, including any standards adopted pursuant
34 to the program, as necessary, but not less than once every three
35 years. The department may not revise the program or standards in
36 a way that reduces the average efficiency of replacement tires.

37 SEC. 265. Section 25802 of the Public Resources Code is
38 amended to read:

39 25802. (a) A person who submits to the department a notice
40 of intent for a proposed generating facility shall accompany the

1 notice with a fee of one cent (\$0.01) per kilowatt of net electric
2 capacity of the proposed generation facility. The fee shall only be
3 paid on one of the alternate proposed facility sites that has the
4 highest electrical designed capacity. In no event shall the fee be
5 less than one thousand dollars (\$1,000) nor more than twenty-five
6 thousand dollars (\$25,000).

7 (b) For any other facility, the notice shall be accompanied by a
8 fee of five thousand dollars (\$5,000). The fee shall only be paid
9 on one of the alternate proposed facility sites.

10 SEC. 266. Section 25803 of the Public Resources Code is
11 amended to read:

12 25803. Funds received by the department pursuant to Section
13 25802, shall be remitted to the State Treasurer for deposit in the
14 account. All funds in the account shall be expended for purposes
15 of carrying out the provisions of this division, when appropriated
16 by the Legislature in the Budget Act.

17 SEC. 267. Section 25900 of the Public Resources Code is
18 amended to read:

19 25900. Except as provided in Section 25531, whenever the
20 department finds that any provision of this division is violated or
21 a violation is threatening to take place that constitutes an
22 emergency requiring immediate action to protect the public health,
23 welfare, or safety, the Attorney General, upon request of the
24 department, shall petition a court to enjoin the violation. The court
25 shall have jurisdiction to grant prohibitory or mandatory injunctive
26 relief as may be warranted by way of temporary restraining order,
27 preliminary injunction, and permanent injunction.

28 SEC. 268. Section 25901 of the Public Resources Code is
29 amended to read:

30 25901. (a) Within 30 days after the department, including the
31 commission, issues its determination on any matter specified in
32 this division, except as provided in Section 25531, an aggrieved
33 person may file with the superior court a petition for a writ of
34 mandate for review of the determination. Failure to file this petition
35 does not preclude a person from challenging the reasonableness
36 and validity of a decision in any judicial proceedings brought to
37 enforce the decision or to obtain other civil remedies.

38 (b) The decision of the department or the commission shall be
39 sustained by the court unless the court finds (1) that the commission
40 proceeded without, or in excess of its jurisdiction, (2) that, based

1 exclusively upon a review of the record before the department or
2 the commission, the decision is not supported by substantial
3 evidence in light of the whole record, or (3) that the department
4 or the commission failed to proceed in the manner required by
5 law.

6 (c) Except as otherwise provided in this section, subdivisions
7 (f) and (g) of Section 1094.5 of the Code of Civil Procedure govern
8 proceedings pursuant to this section.

9 (d) The amendment of this section made at the 1989–90 Regular
10 Session of the Legislature does not constitute a change in, but is
11 declaratory of, existing law.

12 SEC. 269. Section 25902 of the Public Resources Code is
13 amended to read:

14 25902. Any evaluations in the reports required by Section
15 25302 and any findings and determinations on the notice of intent
16 pursuant to Chapter 6 (commencing with Section 25500) shall not
17 be construed as a final evaluation, finding, or determination by the
18 department or the commission and a court action may not be
19 brought to review the evaluation, finding, or determination.

20 SEC. 270. Section 25911 of the Public Resources Code is
21 amended to read:

22 25911. The commission may adopt regulations pertaining to
23 urea formaldehyde foam insulation materials as are reasonably
24 necessary to protect the public health and safety. These regulations
25 may include, but are not limited to, prohibition of the manufacture,
26 sale, or installation of urea formaldehyde foam insulation,
27 requirements for safety notices to consumers, certification of
28 installers, and specification of installation practices. Regulations
29 adopted pursuant to this section shall be promulgated after public
30 hearings in accordance with Chapter 3.5 (commencing with Section
31 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
32 Any regulation adopted by the commission to prohibit the sale and
33 installation of urea formaldehyde foam insulation shall be based
34 upon a record of scientific evidence that demonstrates the need
35 for the prohibition in order to protect the public health and safety.

36 SEC. 271. Section 25912 of the Public Resources Code is
37 amended to read:

38 25912. Prior to adopting any regulation that causes a prohibition
39 on the sale and installation of urea formaldehyde foam insulation,

1 the department shall consult with, and solicit written comments
2 from, all of the following:

3 (a) Federal and state agencies with appropriate scientific staffs,
4 including, but not limited to, the State Department of Health
5 Services, the National Academy of Sciences, the United States
6 Department of Housing and Urban Development, the United States
7 Department of Energy, and the United States Consumer Product
8 Safety Commission.

9 (b) Universities and public and private scientific organizations.

10 SEC. 272. Section 25942 of the Public Resources Code is
11 amended to read:

12 25942. (a) On or before July 1, 1995, the department shall
13 establish criteria for adopting a statewide home energy rating
14 program for residential dwellings. The program criteria shall
15 include, but are not limited to, all of the following elements:

16 (1) Consistent, accurate, and uniform ratings based on a single
17 statewide rating scale.

18 (2) Reasonable estimates of potential utility bill savings, and
19 reliable recommendations on cost-effective measures to improve
20 energy efficiency.

21 (3) Training and certification procedures for home raters and
22 quality assurance procedures to promote accurate ratings and to
23 protect consumers.

24 (4) In coordination with home energy rating service organization
25 data bases, procedures to establish a centralized, publicly
26 accessible, data base that includes a uniform reporting system for
27 information on residential dwellings, excluding proprietary
28 information, needed to facilitate the program. There shall be no
29 public access to information in the data base concerning specific
30 dwellings without the owner's or occupant's permission.

31 (5) Labeling procedures that will meet the needs of home buyers,
32 homeowners, renters, the real estate industry, and mortgage lenders
33 with an interest in home energy ratings.

34 (b) The department shall adopt the program pursuant to
35 subdivision (a) in consultation with representatives of the
36 Department of Real Estate, the Department of Housing and
37 Community Development, the Public Utilities Commission,
38 investor-owned and municipal utilities, cities and counties, real
39 estate licensees, home builders, mortgage lenders, home appraisers
40 and inspectors, home energy rating organizations, contractors who

1 provide home energy services, consumer groups, and
2 environmental groups.

3 (c) On and after January 1, 1996, no home energy rating services
4 may be performed in this state unless the services have been
5 certified, if a certification program is available, by the department
6 to be in compliance with the program criteria specified in
7 subdivision (a) and, in addition, are in conformity with any other
8 applicable element of the program.

9 (d) On or before July 1, 1996, the department shall consult with
10 the agencies and organizations described in subdivision (b), to
11 facilitate a public information program to inform homeowners,
12 rental property owners, renters, sellers, and others of the existence
13 of the statewide home energy rating program adopted by the
14 department.

15 (e) The department shall, as part of that biennial report prepared
16 pursuant to Section 25302, report on the progress made to
17 implement a statewide home energy rating program. The report
18 shall include an evaluation of the energy savings attributable to
19 the program, and a recommendation concerning which means and
20 methods will be most efficient and cost-effective to induce home
21 energy ratings for residential dwellings.

22 SEC. 273. Section 25967 of the Public Resources Code is
23 amended to read:

24 25967. (a) A person who violates this chapter shall be liable
25 for a civil penalty not to exceed two thousand five hundred dollars
26 (\$2,500) for each violation, which shall be assessed and recovered
27 in a civil action brought in the name of the people of the State of
28 California by the Attorney General or by any district attorney,
29 county counsel, or city attorney in any court of competent
30 jurisdiction.

31 (b) If the action is brought by the Attorney General, one-half
32 of the penalty collected shall be paid to the treasurer of the county
33 in which the judgment was entered, and one-half to the State
34 Treasurer. If brought by a district attorney or county counsel, the
35 entire amount of penalty collected shall be paid to the treasurer of
36 the county in which the judgment was entered. If brought by a city
37 attorney or city prosecutor, one-half of the penalty shall be paid
38 to the treasurer of the county and one-half to the city.

39 (c) If the action is brought at the request of the department or
40 the commission, the court shall determine the reasonable expenses

1 incurred by the department or the commission in the investigation
2 and prosecution of the action.

3 (d) Before any penalty collected is paid out pursuant to
4 subdivision (b), the amount of reasonable expenses incurred by
5 the department or the commission shall be paid to the State
6 Treasurer.

7 SEC. 274. Section 25968 of the Public Resources Code is
8 amended to read:

9 25968. An inspector appointed or authorized by the department
10 shall have access to the premises, equipment, materials, partly
11 finished and finished articles, and records of any person subject
12 to this chapter.

13 SEC. 275. Section 26004 of the Public Resources Code is
14 amended to read:

15 26004. (a) There is in the state government the California
16 Alternative Energy and Advanced Transportation Financing
17 Authority. The authority constitutes a public instrumentality and
18 the exercise by the authority of powers conferred by this division
19 is the performance of an essential public function.

20 (b) The authority shall consist of five members, as follows:

- 21 (1) The Director of Finance.
22 (2) The Secretary of Energy.
23 (3) The President of the Public Utilities Commission.
24 (4) The Controller.

25 (5) The Treasurer, who shall serve as the chairperson of the
26 authority.

27 (c) The members listed in paragraphs (1) to (5), inclusive, of
28 subdivision (b) may each designate a deputy or clerk in his or her
29 agency to act for and represent the member at all meetings of the
30 authority.

31 (d) The first meeting of the authority shall be convened by the
32 Treasurer.

33 SEC. 276. Section 26011.5 of the Public Resources Code is
34 amended to read:

35 26011.5. The authority, in consultation with the Department
36 of Energy, shall establish criteria for the selection of projects to
37 receive financing assistance from the authority. In the selection of
38 projects, the authority shall, in accordance with the legislative
39 intent, provide financial assistance under this division in a manner
40 consistent with sound financial practice. In developing project

1 selection criteria, the authority shall consider, but not be limited
2 to, all of the following:

3 (a) The technological feasibility of the projects.

4 (b) The economic soundness of the projects and a realistic
5 expectation that all financial obligations can and will be met by
6 the participating parties.

7 (c) The contribution that the projects can make to a reduction
8 or more efficient use of fossil fuels.

9 (d) The contribution that the project can make toward
10 diversifying California's energy resources by fostering renewable
11 energy systems that can substitute, or preferably eliminate, the
12 demand for conventional energy fuels.

13 (e) Any other such factors that the authority finds significant in
14 achieving the purposes and objectives of this division.

15 SEC. 277. Section 26011.6 of the Public Resources Code is
16 amended to read:

17 26011.6. (a) The authority shall establish a renewable energy
18 program to provide financial assistance to public power entities,
19 independent generators, utilities, or businesses manufacturing
20 components or systems, or both, to generate new and renewable
21 energy sources, develop clean and efficient distributed generation,
22 and demonstrate the economic feasibility of new technologies,
23 such as solar, photovoltaic, wind, and ultralow-emission equipment.
24 The authority shall give preference to utility-scale projects that
25 can be rapidly deployed to provide a significant contribution as a
26 renewable energy supply. The program established pursuant to
27 this subdivision shall include financial assistance provided pursuant
28 to subdivision (g) of Section 26011.

29 (b) The authority shall make every effort to expedite the
30 operation of renewable energy systems, and shall adopt regulations
31 for purposes of this section and Section 26011.5 as emergency
32 regulations in accordance with Chapter 3.5 (commencing with
33 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
34 Code. For purposes of that Chapter 3.5, including Section 11349.6
35 of the Government Code, the adoption of the regulations shall be
36 considered by the Office of Administrative Law to be necessary
37 for the immediate preservation of the public peace, health and
38 safety, and general welfare. Notwithstanding the 120-day limitation
39 specified in subdivision (e) of Section 11346.1 of the Government
40 Code, the regulations shall be repealed 180 days after their effective

1 date, unless the authority complies with Sections 11346.2 to
2 11347.3, inclusive, as provided in subdivision (e) of Section
3 11346.1 of the Government Code.

4 (c) The authority shall consult with the Department of Energy
5 regarding the financing of projects to avoid duplication of other
6 renewable energy projects.

7 (d) The authority shall ensure that any financed project shall
8 offer its power within California on a long-term contract basis.

9 (e) The authority shall ensure that a financed project is limited
10 to resources that the authority determines support the state's goals
11 for the reduction of emissions of greenhouse gases pursuant to the
12 California Global Warming Solutions Act of 2006 (Division 25.5
13 (commencing with Section 38500) of the Health and Safety Code).

14 SEC. 278. Section 30404 of the Public Resources Code is
15 amended to read:

16 30404. (a) The commission shall periodically, in the case of
17 the Department of Energy, the State Board of Forestry and Fire
18 Protection, the State Water Resources Control Board and the
19 California regional water quality control boards, the State Air
20 Resources Board and air pollution control districts and air quality
21 management districts, the Department of Fish and Game, the
22 Department of Parks and Recreation, the Department of Boating
23 and Waterways, the California Geological Survey and the Division
24 of Oil, Gas, and Geothermal Resources in the Department of
25 Conservation, and the State Lands Commission, and may, with
26 respect to any other state agency, submit recommendations
27 designed to encourage the state agency to carry out its functions
28 in a manner consistent with this division. The recommendations
29 may include proposed changes in administrative regulations, rules,
30 and statutes.

31 (b) Each of those state agencies shall review and consider the
32 commission recommendations and shall, within six months from
33 the date of their receipt, to the extent that the recommendations
34 have not been implemented, report to the Governor and the
35 Legislature its action and reasons therefor. The report shall also
36 include the state agency's comments on any legislation that may
37 have been proposed by the commission.

38 SEC. 279. Section 322 is added to the Public Utilities Code,
39 to read:

1 322. (a) Whenever in this chapter a reference is made to the
2 “California Energy Resources Conservation and Development
3 Commission,” the “State Energy Resources Conservation and
4 Development Commission,” or the “Energy Commission,” it means
5 the Department of Energy as successor to that entity.

6 (b) Whenever in this chapter a reference is made to the
7 Department of Water Resources acting pursuant to Division 27
8 (commencing with Section 80000) of the Water Code, it includes
9 the Department of Energy as the successor to the Department of
10 Water Resources for this purpose.

11 SEC. 280. Section 332.1 of the Public Utilities Code is
12 amended to read:

13 332.1. (a) (1) It is the intent of the Legislature to enact Item
14 1 (revised) on the commission’s August 21, 2000 agenda, entitled
15 “Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021
16 to Regarding Interim Rate Caps for San Diego Gas and Electric
17 Company,” as modified below.

18 (2) It is also the intent of the Legislature that to the extent that
19 the Federal Energy Regulatory Commission orders refunds to
20 electrical corporations pursuant to their findings, the commission
21 shall ensure that any refunds are returned to customers.

22 (b) The commission shall establish a ceiling of six and
23 five-tenths cents (\$0.065) per kilowatthour on the energy
24 component of electric bills for electricity supplied to residential,
25 small commercial, and street lighting customers by the San Diego
26 Gas and Electric Company, through December 31, 2002, retroactive
27 to June 1, 2000. If the commission finds it in the public interest,
28 this ceiling may be extended through December 2003 and may be
29 adjusted as provided in subdivision (d).

30 (c) The commission shall establish an accounting procedure to
31 track and recover reasonable and prudent costs of providing electric
32 energy to retail customers unrecovered through retail bills due to
33 the application of the ceiling provided for in subdivision (b). The
34 accounting procedure shall utilize revenues associated with sales
35 of energy from utility-owned or managed generation assets to
36 offset an undercollection, if undercollection occurs. The accounting
37 procedure shall be reviewed periodically by the commission, but
38 not less frequently than semiannually. The commission may utilize
39 an existing proceeding to perform the review. The accounting
40 procedure and review shall provide a reasonable opportunity for

1 San Diego Gas and Electric Company to recover its reasonable
2 and prudent costs of service over a reasonable period of time.

3 (d) If the commission determines that it is in the public interest
4 to do so, the commission, after the date of the completion of the
5 proceeding described in subdivision (g), may adjust the ceiling
6 from the level specified in subdivision (b), and may adjust the
7 frozen rate from the levels specified in subdivision (f), consistent
8 with the Legislature's intent to provide substantial protections for
9 customers of the San Diego Gas and Electric Company and their
10 interest in just and reasonable rates and adequate service.

11 (e) For purposes of this section, "small commercial customer"
12 includes, but is not limited to, all San Diego Gas and Electric
13 Company accounts on Rate Schedule A of the San Diego Gas and
14 Electric Company, all accounts of customers who are "general
15 acute care hospitals," as defined in Section 1250 of the Health and
16 Safety Code, all San Diego Gas and Electric Company accounts
17 of customers who are public or private schools for pupils in
18 kindergarten or any of grades 1 to 12, inclusive, and all accounts
19 on Rate Schedule AL-TOU under 100 kilowatts.

20 (f) The commission shall establish an initial frozen rate of six
21 and five-tenths cents (\$0.065) per kilowatthour on the energy
22 component of electric bills for electricity supplied to all customers
23 by the San Diego Gas and Electric Company not subject to
24 subdivision (b), for the time period ending with the end of the rate
25 freeze for the Pacific Gas and Electric Company and the Southern
26 California Edison Company pursuant to Section 368, retroactive
27 to February 7, 2001. The commission shall consider the comparable
28 energy components of rates for comparable customer classes served
29 by the Pacific Gas and Electric Company and the Southern
30 California Edison Company and, if it determines it to be in the
31 public interest, the commission may adjust this frozen rate, and
32 may do so, retroactive to the date that rate increases took effect
33 for customers of Pacific Gas and Electric Company and Southern
34 California Edison Company pursuant to the commission's March
35 27, 2001, decision. The commission shall determine the Fixed
36 Department of Water Resources Set-Aside pursuant to Section
37 360.5 for customers subject to this section, reflecting a retail rate
38 consistent with the rate for the energy component of electric bills
39 as determined in this subdivision, in place of the retail rate in effect
40 on January 5, 2001. This section shall be construed to modify the

1 payment provisions, but may not be construed to modify the
2 electric procurement obligations of the Department of Water
3 Resources, pursuant to any contract or agreement in accordance
4 with Division 27 (commencing with Section 80000) of the Water
5 Code, and in effect as of February 7, 2001, between the Department
6 of Water Resources and San Diego Gas and Electric Company.

7 (g) The commission shall institute a proceeding to examine the
8 prudence and reasonableness of the San Diego Gas and Electric
9 Company in the procurement of wholesale energy on behalf of its
10 customers, for a period beginning, at the latest, on June 1, 2000.
11 If the commission finds that San Diego Gas and Electric Company
12 acted imprudently or unreasonably, the commission shall issue
13 orders that it determines to be appropriate affecting the retail rates
14 of San Diego Gas and Electric Company customers including, but
15 not limited to, refunds.

16 (h) This section does not limit the authority of the Department
17 of Water Resources, or its successor, pursuant to Division 27
18 (commencing with Section 80000) of the Water Code.

19 SEC. 281. Article 2 (commencing with Section 334) of Chapter
20 2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

21 SEC. 282. Section 345.1 is added to the Public Utilities Code,
22 to read:

23 345.1. (a) The Independent System Operator governing board
24 shall be composed of a five-member independent governing board
25 of directors appointed by the Governor and subject to confirmation
26 by the Senate. Any reference in this chapter or in any other
27 provision of law to the Independent System Operator governing
28 board means the independent governing board appointed under
29 this subdivision.

30 (b) A member of the independent governing board appointed
31 under subdivision (a) may not be affiliated with any actual or
32 potential participant in any market administered by the Independent
33 System Operator.

34 (c) (1) All appointments shall be for three-year terms.

35 (2) There is no limit on the number of terms that may be served
36 by any member.

37 (d) The Office of Energy Market Oversight shall require the
38 articles of incorporation and bylaws of the Independent System
39 Operator to be revised in accordance with this section, and shall

1 make filings with the Federal Energy Regulatory Commission as
2 the office determines to be necessary.

3 (e) For the purposes of the initial appointments to the
4 Independent System Operator governing board, as provided in
5 subdivision (a), the Governor shall appoint one member to a
6 one-year term, two members to a two-year term, and two members
7 to a three-year term.

8 SEC. 283. Section 345.2 is added to the Public Utilities Code,
9 to read:

10 345.2. (a) The Independent System Operator and Power
11 Exchange bylaws shall contain provisions that identify those
12 matters specified in subdivision (b) of Section 25227.6 of the
13 Public Resources Code as matters within state jurisdiction. The
14 bylaws shall also contain provisions that state that California's
15 bylaws approval function with respect to the matters specified in
16 subdivision (b) of Section 25227.6 of the Public Resources Code
17 shall not preclude the Federal Energy Regulatory Commission
18 from taking any action necessary to address undue discrimination
19 or other violations of the Federal Power Act (16 U.S.C. Sec. 791a
20 et seq.) or to exercise any other commission responsibility under
21 the Federal Power Act. In taking this action, the Federal Energy
22 Regulatory Commission shall give due respect to California's
23 jurisdictional interests in the functions of the Independent System
24 Operator and Power Exchange and to attempt to accommodate
25 state interests to the extent those interests are not inconsistent with
26 the Federal Energy Regulatory Commission's statutory
27 responsibilities. The bylaws shall state that any future agreement
28 regarding the apportionment of the Independent System Operator
29 and Power Exchange board appointment function among
30 participating states associated with the expansion of the
31 Independent System Operator and Power Exchange into multistate
32 entities shall be filed with the Federal Energy Regulatory
33 Commission pursuant to Section 205 of the Federal Power Act (16
34 U.S.C. Sec. 824d).

35 (b) Any necessary bylaw changes to implement the provisions
36 of Section 345.1 or subdivision (a) of this section, or Section
37 25227.1, 25227.5, or 25227.6 of the Public Resources Code, or
38 changes required pursuant to an agreement as contemplated by
39 subdivision (a) of this section with a participating state for a
40 regional organization, shall be effective upon approval of the

1 respective governing boards and the Office of Energy Market
2 Oversight and acceptance for filing by the Federal Energy
3 Regulatory Commission.

4 SEC. 284. Section 346 of the Public Utilities Code is amended
5 to read:

6 346. The Department of Energy, through the Office of Energy
7 Market Oversight, shall immediately participate in all relevant
8 Federal Energy Regulatory Commission proceedings. The
9 Department of Energy shall ensure that additional filings at the
10 Federal Energy Regulatory Commission request confirmation of
11 the relevant provisions of this chapter and seek the authority needed
12 to give the Department of Energy the ability to secure generating
13 and transmission resources necessary to guarantee achievement
14 of planning and operating reserve criteria no less stringent than
15 those established by the Western Electricity Coordinating Council
16 and the North American Electric Reliability Council.

17 SEC. 285. Section 348 of the Public Utilities Code is amended
18 to read:

19 348. The Independent System Operator shall adopt inspection,
20 maintenance, repair, and replacement standards for the transmission
21 facilities under its control no later than September 30, 1997. The
22 standards, which shall be performance or prescriptive standards,
23 or both, as appropriate, for each substantial type of transmission
24 equipment or facility, shall provide for high quality, safe, and
25 reliable service. In adopting its standards, the Independent System
26 Operator shall consider: cost, local geography and weather,
27 applicable codes, national electric industry practices, sound
28 engineering judgment, and experience. The Independent System
29 Operator shall also adopt standards for reliability, and safety during
30 periods of emergency and disaster. The Independent System
31 Operator shall report to the Office of Energy Market Oversight,
32 at the times that the office may specify, on the development and
33 implementation of the standards in relation to facilities under the
34 operational control of the Independent System Operator. The
35 Independent System Operator shall require each transmission
36 facility owner or operator to report annually on its compliance
37 with the standards. That report shall be made available to the
38 public.

39 SEC. 286. Section 350 of the Public Utilities Code is amended
40 to read:

1 350. The Independent System Operator, in consultation with
2 the Department of Energy, the Public Utilities Commission, the
3 Western Electricity Coordinating Council, and concerned
4 regulatory agencies in other western states, shall within six months
5 after the Federal Energy Regulatory Commission approval of the
6 Independent System Operator, provide a report to the Legislature
7 and to the Office of Energy Market Oversight that does the
8 following:

9 (a) Conducts an independent review and assessment of Western
10 Electricity Coordinating Council operating reliability criteria.

11 (b) Quantifies the economic cost of major transmission outages
12 relating to the Pacific Intertie, Southwest Power Link, DC link,
13 and other important high voltage lines that carry power both into
14 and from California.

15 (c) Identifies the range of cost-effective options that would
16 prevent or mitigate the consequences of major transmission
17 outages.

18 (d) Identifies communication protocols that may be needed to
19 be established to provide advance warning of incipient problems.

20 (e) Identifies the need for additional generation reserves and
21 other voltage support equipment, if any, or other resources that
22 may be necessary to carry out its functions.

23 (f) Identifies transmission capacity additions that may be
24 necessary at certain times of the year or under certain conditions.

25 (g) Assesses the adequacy of current and prospective
26 institutional provisions for the maintenance of reliability.

27 (h) Identifies mechanisms to enforce transmission right-of-way
28 maintenance.

29 (i) Contains recommendations regarding cost-beneficial
30 improvements to electric system reliability for the citizens of
31 California.

32 SEC. 287. Section 352 of the Public Utilities Code is amended
33 to read:

34 352. The Independent System Operator may not enter into a
35 multistate entity or a regional organization as authorized in Section
36 359 unless that entry is approved by the Office of Energy Market
37 Oversight.

38 SEC. 288. Section 353.7 of the Public Utilities Code is
39 amended to read:

1 353.7. Notwithstanding Section 353.3, this article does not
2 result in any exemption from reasonable interconnection charges,
3 lead to any reduction in contributions by each customer class to
4 public purpose programs funded under Section 399.8, or relieve
5 any customer of any obligation determined by the commission to
6 result from participation in the purchase of power through the
7 Department of Water Resources, or its successor, the Department
8 of Energy, pursuant to Division 27 (commencing with Section
9 80000) of the Water Code.

10 SEC. 289. Section 360 of the Public Utilities Code is amended
11 to read:

12 360. The Department of Energy shall ensure that existing, and
13 if necessary, additional filings at the Federal Energy Regulatory
14 Commission request confirmation of the relevant provisions of
15 this chapter and seek the authority needed to give the Independent
16 System Operator the ability to secure generating and transmission
17 resources necessary to guarantee achievement of planning and
18 operating reserve criteria no less stringent than those established
19 by the Western Electricity Coordinating Council and the North
20 American Electric Reliability Council.

21 SEC. 290. Section 365 of the Public Utilities Code is amended
22 to read:

23 365. The actions of the commission pursuant to this chapter
24 shall be consistent with the findings and declarations contained in
25 Section 330. In addition, the commission shall do all of the
26 following:

27 (a) Facilitate the efforts of the state's electrical corporations to
28 develop and obtain authorization from the Federal Energy
29 Regulatory Commission for the creation and operation of an
30 Independent System Operator and an independent Power Exchange,
31 for the determination of which transmission and distribution
32 facilities are subject to the exclusive jurisdiction of the commission,
33 and for approval, to the extent necessary, of the cost recovery
34 mechanism established as provided in Sections 367 to 376,
35 inclusive. The Office of Energy Market Oversight shall participate
36 fully in all proceedings before the Federal Energy Regulatory
37 Commission in connection with the Independent System Operator
38 and the independent Power Exchange, and shall encourage the
39 Federal Energy Regulatory Commission to adopt protocols and
40 procedures that strengthen the reliability of the interconnected

1 transmission grid, encourage all publicly owned utilities in
2 California to become full participants, and maximize enforceability
3 of such protocols and procedures by all market participants.

4 (b) (1) Authorize direct transactions between electricity
5 suppliers and end use customers, subject to implementation of the
6 nonbypassable charge referred to in Sections 367 to 376, inclusive.
7 Direct transactions shall commence simultaneously with the start
8 of an Independent System Operator and Power Exchange referred
9 to in subdivision (a). The simultaneous commencement shall occur
10 as soon as practicable, but no later than January 1, 1998. The
11 commission shall develop a phase-in schedule at the conclusion
12 of which all customers shall have the right to engage in direct
13 transactions. Any phase-in of customer eligibility for direct
14 transactions ordered by the commission shall be equitable to all
15 customer classes and accomplished as soon as practicable,
16 consistent with operational and other technological considerations,
17 and shall be completed for all customers by January 1, 2002.

18 (2) Customers shall be eligible for direct access irrespective of
19 any direct access phase-in implemented pursuant to this section if
20 at least one-half of that customer's electrical load is supplied by
21 energy from a renewable resource provider certified pursuant to
22 Section 383, provided however that nothing in this section shall
23 provide for direct access for electric consumers served by municipal
24 utilities unless so authorized by the governing board of that
25 municipal utility.

26 SEC. 291. Section 366.1 of the Public Utilities Code is
27 amended to read:

28 366.1. (a) As used in this section, the following terms have
29 the following meanings:

30 (1) "Department" means the Department of Water Resources,
31 or its successor, the Department of Energy, with respect to its power
32 program described in Chapter 2 (commencing with Section 80100)
33 of Division 27 of the Water Code.

34 (2) "Existing project participant" means a city with rights and
35 obligations to the Magnolia Power Project under the Magnolia
36 Power Project Planning Agreement, dated May 1, 2001.

37 (3) "Magnolia Power Project" means a proposed natural
38 gas-fired electric generating facility to be located at an existing
39 site in Burbank and for which an application for certification has
40 been filed with the State Energy Resources Conservation and

1 Development Act (Docket No. 00-SIT-1) and deemed data adequate
2 pursuant to the expedited six-month licensing process established
3 under Section 25550 of the Public Resources Code.

4 (b) Notwithstanding Section 80110 of the Water Code or
5 Commission Decision 01-09-060, if the Magnolia Power Project
6 has been constructed and is otherwise capable of beginning
7 deliveries of electricity to the existing project participants, an
8 existing project participant may serve as a community aggregator
9 on behalf of all retail end-use customers within its jurisdiction.

10 (c) Subdivision (b) shall not become operative until both of the
11 following occur:

12 (1) The commission implements a cost-recovery mechanism,
13 consistent with subdivision (d), that is applicable to customers that
14 elected to purchase electricity from an alternate provider between
15 February 1, 2001, and the effective date of the act adding this
16 section.

17 (2) The commission submits a report certifying its satisfaction
18 of paragraph (1) to the Senate Energy, Utilities and
19 Communications Committee, or its successor, and the Assembly
20 Committee on Utilities and Commerce, or its successor.

21 (d) (1) It is the intent of the Legislature that each retail end-use
22 customer that has purchased power from an electrical corporation
23 on or after February 1, 2001, should bear a fair share of the
24 department's power purchase costs, as well as power purchase
25 contract obligations incurred as of January 1, 2003, that are
26 recoverable from electrical corporation customers in
27 commission-approved rates. It is the further intent of the
28 Legislature to prevent any shifting of recoverable costs between
29 customers.

30 (2) The Legislature finds and declares that the provisions in this
31 subdivision are consistent with the requirements of Section 360.5
32 and Division 27 (commencing with Section 80000) of the Water
33 Code, and are therefore declaratory of existing law.

34 (e) A retail end-use customer purchasing power from a
35 community aggregator pursuant to subdivision (b) shall reimburse
36 the department for all of the following:

37 (1) A charge equivalent to the charge that would otherwise be
38 imposed on the customer by the commission to recover bond
39 related costs pursuant to an agreement between the commission
40 and the department pursuant to Section 80110 of the Water Code,

1 that charge shall be payable until all obligations of the department
2 pursuant to Division 27 of the Water Code are fully paid or
3 otherwise discharged.

4 (2) The costs of the department, equal to the share of the
5 department's estimated net unavoidable power purchase contract
6 costs attributable to the customer, as determined by the
7 commission, for the period commencing with the customer's
8 purchases of electricity from a community aggregator, through the
9 expiration of all then existing power purchase contracts entered
10 into by the department.

11 (f) A retail end-use customer purchasing power from a
12 community aggregator pursuant to subdivision (b) shall reimburse
13 the electrical corporation that previously served the customer for
14 all of the following:

15 (1) The electrical corporation's unrecovered past
16 undercollections, including all financing costs attributable to that
17 customer, that the commission lawfully determines may be
18 recovered in rates.

19 (2) The costs of the electrical corporation recoverable in
20 commission-approved rates, equal to the share of the electrical
21 corporation's estimated net unavoidable power purchase contract
22 costs attributable to the customer, as determined by the
23 commission, for the period commencing with the customer's
24 purchases of electricity from the community aggregator, through
25 the expiration of all then existing power purchase contracts entered
26 into by the electrical corporation.

27 (g) (1) A charge or cost imposed pursuant to subdivision (e),
28 and all revenues received to pay the charge or cost, shall be the
29 property of the department. A charge or cost imposed pursuant to
30 subdivision (f), and all revenues received to pay the charge or cost,
31 shall be the property of the particular electrical corporation. The
32 commission shall establish mechanisms, including agreements
33 with, or orders with respect to, electrical corporations necessary
34 to assure that the revenues received to pay a charge or cost payable
35 pursuant to this section are promptly remitted to the party entitled
36 to those revenues.

37 (2) A charge or cost imposed pursuant to this section shall be
38 nonbypassable.

39 SEC. 292. Section 366.2 of the Public Utilities Code is
40 amended to read:

1 366.2. (a) (1) Customers shall be entitled to aggregate their
2 electric loads as members of their local community with
3 community choice aggregators.

4 (2) Customers may aggregate their loads through a public
5 process with community choice aggregators, if each customer is
6 given an opportunity to opt out of their community's aggregation
7 program.

8 (3) If a customer opts out of a community choice aggregator's
9 program, or has no community choice program available, that
10 customer shall have the right to continue to be served by the
11 existing electrical corporation or its successor in interest.

12 (b) If a public agency seeks to serve as a community choice
13 aggregator, it shall offer the opportunity to purchase electricity to
14 all residential customers within its jurisdiction.

15 (c) (1) Notwithstanding Section 366, a community choice
16 aggregator is hereby authorized to aggregate the electrical load of
17 interested electricity consumers within its boundaries to reduce
18 transaction costs to consumers, provide consumer protections, and
19 leverage the negotiation of contracts. However, the community
20 choice aggregator may not aggregate electrical load if that load is
21 served by a local publicly owned electric utility. A community
22 choice aggregator may group retail electricity customers to solicit
23 bids, broker, and contract for electricity and energy services for
24 those customers. The community choice aggregator may enter into
25 agreements for services to facilitate the sale and purchase of
26 electricity and other related services. Those service agreements
27 may be entered into by a single city or county, a city and county,
28 or by a group of cities, cities and counties, or counties.

29 (2) Under community choice aggregation, customer participation
30 may not require a positive written declaration, but all customers
31 shall be informed of their right to opt out of the community choice
32 aggregation program. If no negative declaration is made by a
33 customer, that customer shall be served through the community
34 choice aggregation program.

35 (3) A community choice aggregator establishing electrical load
36 aggregation pursuant to this section shall develop an
37 implementation plan detailing the process and consequences of
38 aggregation. The implementation plan, and any subsequent changes
39 to it, shall be considered and adopted at a duly noticed public
40 hearing. The implementation plan shall contain all of the following:

1 (A) An organizational structure of the program, its operations,
2 and its funding.

3 (B) Ratesetting and other costs to participants.

4 (C) Provisions for disclosure and due process in setting rates
5 and allocating costs among participants.

6 (D) The methods for entering and terminating agreements with
7 other entities.

8 (E) The rights and responsibilities of program participants,
9 including, but not limited to, consumer protection procedures,
10 credit issues, and shutoff procedures.

11 (F) Termination of the program.

12 (G) A description of the third parties that will be supplying
13 electricity under the program, including, but not limited to,
14 information about financial, technical, and operational capabilities.

15 (4) A community choice aggregator establishing electrical load
16 aggregation shall prepare a statement of intent with the
17 implementation plan. Any community choice load aggregation
18 established pursuant to this section shall provide for the following:

19 (A) Universal access.

20 (B) Reliability.

21 (C) Equitable treatment of all classes of customers.

22 (D) Any requirements established by state law or by the
23 commission concerning aggregated service.

24 (5) In order to determine the cost-recovery mechanism to be
25 imposed on the community choice aggregator pursuant to
26 subdivisions (d), (e), and (f) that shall be paid by the customers of
27 the community choice aggregator to prevent shifting of costs, the
28 community choice aggregator shall file the implementation plan
29 with the commission, and any other information requested by the
30 commission that the commission determines is necessary to develop
31 the cost-recovery mechanism in subdivisions (d), (e), and (f).

32 (6) The commission shall notify any electrical corporation
33 serving the customers proposed for aggregation that an
34 implementation plan initiating community choice aggregation has
35 been filed, within 10 days of the filing.

36 (7) Within 90 days after the community choice aggregator
37 establishing load aggregation files its implementation plan, the
38 commission shall certify that it has received the implementation
39 plan, including any additional information necessary to determine
40 a cost-recovery mechanism. After certification of receipt of the

1 implementation plan and any additional information requested,
2 the commission shall then provide the community choice
3 aggregator with its findings regarding any cost recovery that must
4 be paid by customers of the community choice aggregator to
5 prevent a shifting of costs as provided for in subdivisions (d), (e),
6 and (f).

7 (8) No entity proposing community choice aggregation shall
8 act to furnish electricity to electricity consumers within its
9 boundaries until the commission determines the cost-recovery that
10 must be paid by the customers of that proposed community choice
11 aggregation program, as provided for in subdivisions (d), (e), and
12 (f). The commission shall designate the earliest possible effective
13 date for implementation of a community choice aggregation
14 program, taking into consideration the impact on any annual
15 procurement plan of the electrical corporation that has been
16 approved by the commission.

17 (9) All electrical corporations shall cooperate fully with any
18 community choice aggregators that investigate, pursue, or
19 implement community choice aggregation programs. Cooperation
20 shall include providing the entities with appropriate billing and
21 electrical load data, including, but not limited to, data detailing
22 electricity needs and patterns of usage, as determined by the
23 commission, and in accordance with procedures established by
24 the commission. Electrical corporations shall continue to provide
25 all metering, billing, collection, and customer service to retail
26 customers that participate in community choice aggregation
27 programs. Bills sent by the electrical corporation to retail customers
28 shall identify the community choice aggregator as providing the
29 electrical energy component of the bill. The commission shall
30 determine the terms and conditions under which the electrical
31 corporation provides services to community choice aggregators
32 and retail customers.

33 (10) (A) A city, county, or city and county that elects to
34 implement a community choice aggregation program within its
35 jurisdiction pursuant to this chapter shall do so by ordinance.

36 (B) Two or more cities, counties, or cities and counties may
37 participate as a group in a community choice aggregation pursuant
38 to this chapter, through a joint powers agency established pursuant
39 to Chapter 5 (commencing with Section 6500) of Division 7 of

1 Title 1 of the Government Code, if each entity adopts an ordinance
2 pursuant to subparagraph (A).

3 (11) Following adoption of aggregation through the ordinance
4 described in paragraph (10), the program shall allow any retail
5 customer to opt out and to continue to be served as a bundled
6 service customer by the existing electrical corporation, or its
7 successor in interest. Delivery services shall be provided at the
8 same rates, terms, and conditions, as approved by the commission,
9 for community choice aggregation customers and customers that
10 have entered into a direct transaction where applicable, as
11 determined by the commission. Once enrolled in the aggregated
12 entity, any ratepayer that chooses to opt out within 60 days or two
13 billing cycles of the date of enrollment may do so without penalty
14 and shall be entitled to receive default service pursuant to paragraph
15 (3) of subdivision (a). Customers that return to the electrical
16 corporation for procurement services shall be subject to the same
17 terms and conditions as are applicable to other returning direct
18 access customers from the same class, as determined by the
19 commission, as authorized by the commission pursuant to this
20 code or any other provision of law. Any reentry fees to be imposed
21 after the opt-out period specified in this paragraph, shall be
22 approved by the commission and shall reflect the cost of reentry.
23 The commission shall exclude any amounts previously determined
24 and paid pursuant to subdivisions (d), (e), and (f) from the cost of
25 reentry.

26 (12) Nothing in this section shall be construed as authorizing
27 any city or any community choice retail load aggregator to restrict
28 the ability of retail electricity customers to obtain or receive service
29 from any authorized electric service provider in a manner consistent
30 with law.

31 (13) (A) The community choice aggregator shall fully inform
32 participating customers at least twice within two calendar months,
33 or 60 days, in advance of the date of commencing automatic
34 enrollment. Notifications may occur concurrently with billing
35 cycles. Following enrollment, the aggregated entity shall fully
36 inform participating customers for not less than two consecutive
37 billing cycles. Notification may include, but is not limited to, direct
38 mailings to customers, or inserts in water, sewer, or other utility
39 bills. Any notification shall inform customers of both of the
40 following:

1 (i) That they are to be automatically enrolled and that the
2 customer has the right to opt out of the community choice
3 aggregator without penalty.

4 (ii) The terms and conditions of the services offered.

5 (B) The community choice aggregator may request the
6 commission to approve and order the electrical corporation to
7 provide the notification required in subparagraph (A). If the
8 commission orders the electrical corporation to send one or more
9 of the notifications required pursuant to subparagraph (A) in the
10 electrical corporation's normally scheduled monthly billing
11 process, the electrical corporation shall be entitled to recover from
12 the community choice aggregator all reasonable incremental costs
13 it incurs related to the notification or notifications. The electrical
14 corporation shall fully cooperate with the community choice
15 aggregator in determining the feasibility and costs associated with
16 using the electrical corporation's normally scheduled monthly
17 billing process to provide one or more of the notifications required
18 pursuant to subparagraph (A).

19 (C) Each notification shall also include a mechanism by which
20 a ratepayer may opt out of community choice aggregated service.
21 The opt out may take the form of a self-addressed return postcard
22 indicating the customer's election to remain with, or return to,
23 electrical energy service provided by the electrical corporation, or
24 another straightforward means by which the customer may elect
25 to derive electrical energy service through the electrical corporation
26 providing service in the area.

27 (14) The community choice aggregator shall register with the
28 commission, which may require additional information to ensure
29 compliance with basic consumer protection rules and other
30 procedural matters.

31 (15) Once the community choice aggregator's contract is signed,
32 the community choice aggregator shall notify the applicable
33 electrical corporation that community choice service will
34 commence within 30 days.

35 (16) Once notified of a community choice aggregator program,
36 the electrical corporation shall transfer all applicable accounts to
37 the new supplier within a 30-day period from the date of the close
38 of their normally scheduled monthly metering and billing process.

39 (17) An electrical corporation shall recover from the community
40 choice aggregator any costs reasonably attributable to the

1 community choice aggregator, as determined by the commission,
2 of implementing this section, including, but not limited to, all
3 business and information system changes, except for
4 transaction-based costs as described in this paragraph. Any costs
5 not reasonably attributable to a community choice aggregator shall
6 be recovered from ratepayers, as determined by the commission.
7 All reasonable transaction-based costs of notices, billing, metering,
8 collections, and customer communications or other services
9 provided to an aggregator or its customers shall be recovered from
10 the aggregator or its customers on terms and at rates to be approved
11 by the commission.

12 (18) At the request and expense of any community choice
13 aggregator, electrical corporations shall install, maintain and
14 calibrate metering devices at mutually agreeable locations within
15 or adjacent to the community aggregator's political boundaries.
16 The electrical corporation shall read the metering devices and
17 provide the data collected to the community aggregator at the
18 aggregator's expense. To the extent that the community aggregator
19 requests a metering location that would require alteration or
20 modification of a circuit, the electrical corporation shall only be
21 required to alter or modify a circuit if such alteration or
22 modification does not compromise the safety, reliability or
23 operational flexibility of the electrical corporation's facilities. All
24 costs incurred to modify circuits pursuant to this paragraph, shall
25 be borne by the community aggregator.

26 (d) (1) It is the intent of the Legislature that each retail end-use
27 customer that has purchased power from an electrical corporation
28 on or after February 1, 2001, should bear a fair share of the
29 electricity purchase costs of the Department of Water Resources,
30 or its successor, the Department of Energy, as well as electricity
31 purchase contract obligations incurred as of the effective date of
32 the act adding this section, that are recoverable from electrical
33 corporation customers in commission-approved rates. It is further
34 the intent of the Legislature to prevent any shifting of recoverable
35 costs between customers.

36 (2) The Legislature finds and declares that this subdivision is
37 consistent with the requirements of Division 27 (commencing with
38 Section 80000) of the Water Code and Section 360.5, and is
39 therefore declaratory of existing law.

(e) A retail end-use customer that purchases electricity from a community choice aggregator pursuant to this section shall pay both of the following:

(1) A charge equivalent to the charges that would otherwise be imposed on the customer by the commission to recover bond related costs pursuant to any agreement between the commission and the Department of Water Resources, or its successor, the Department of Energy, pursuant to Section 80110 of the Water Code, which charge shall be payable until any obligations of the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code are fully paid or otherwise discharged.

(2) Any additional costs of the Department of Water Resources, or its successor, the Department of Energy, equal to the customer's proportionate share of the Department of Water Resources' estimated net unavoidable electricity purchase contract costs as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the Department of Water Resources, or its successor.

(f) A retail end-use customer purchasing electricity from a community choice aggregator pursuant to this section shall reimburse the electrical corporation that previously served the customer for all of the following:

(1) The electrical corporation's unrecovered past undercollections for electricity purchases, including any financing costs, attributable to that customer, that the commission lawfully determines may be recovered in rates.

(2) Any additional costs of the electrical corporation recoverable in commission-approved rates, equal to the share of the electrical corporation's estimated net unavoidable electricity purchase contract costs attributable to the customer, as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the electrical corporation.

(g) (1) Any charges imposed pursuant to subdivision (e) shall be the property of the Department of Water Resources. Any charges imposed pursuant to subdivision (f) shall be the property of the

1 electrical corporation. The commission shall establish mechanisms,
2 including agreements with, or orders with respect to, electrical
3 corporations necessary to ensure that charges payable pursuant to
4 this section shall be promptly remitted to the party entitled to
5 payment.

6 (2) Charges imposed pursuant to subdivisions (d), (e), and (f)
7 shall be nonbypassable.

8 (h) Notwithstanding Section 80110 of the Water Code, the
9 commission shall authorize community choice aggregation only
10 if the commission imposes a cost-recovery mechanism pursuant
11 to subdivisions (d), (e), (f), and (g). Except as provided by this
12 subdivision, this section shall not alter the suspension by the
13 commission of direct purchases of electricity from alternate
14 providers other than by community choice aggregators, pursuant
15 to Section 80110 of the Water Code.

16 (i) (1) The commission shall not authorize community choice
17 aggregation until it implements a cost-recovery mechanism,
18 consistent with subdivisions (d), (e), and (f), that is applicable to
19 customers that elected to purchase electricity from an alternate
20 provider between February 1, 2001, and January 1, 2003.

21 (2) The commission shall not authorize community choice
22 aggregation until it submits a report certifying compliance with
23 paragraph (1) to the Senate Energy, Utilities and Communications
24 Committee, or its successor, and the Assembly Committee on
25 Utilities and Commerce, or its successor.

26 (3) The commission shall not authorize community choice
27 aggregation until it has adopted rules for implementing community
28 choice aggregation.

29 (j) The commission shall prepare and submit to the Legislature,
30 on or before January 1, 2006, a report regarding the number of
31 community choices aggregations, the number of customers served
32 by community choice aggregations, third party suppliers to
33 community choice aggregations, compliance with this section, and
34 the overall effectiveness of community choice aggregation
35 programs.

36 SEC. 293. Section 384 of the Public Utilities Code is amended
37 to read:

38 384. (a) Funds transferred to the Department of Energy
39 pursuant to this article for purposes of public interest research,
40 development, and demonstration shall be transferred to the Public

1 Interest Research, Development, and Demonstration Fund, which
2 is hereby created in the State Treasury. The fund is a trust fund
3 and shall contain money from all interest, repayments,
4 disencumbrances, royalties, and any other proceeds appropriated,
5 transferred, or otherwise received for purposes pertaining to public
6 interest research, development, and demonstration. Any
7 appropriations that are made from the fund shall have an
8 encumbrance period of not longer than two years, and a liquidation
9 period of not longer than four years.

10 (b) Funds deposited in the Public Interest Research,
11 Development, and Demonstration Fund may be expended for
12 projects that serve the energy needs of both stationary and
13 transportation purposes if the research provides an electricity
14 ratepayer benefit.

15 (c) The Department of Energy shall report annually to the
16 appropriate budget committees of the Legislature on any
17 encumbrances or liquidations that are outstanding at the time the
18 commission's budget is submitted to the Legislature for review.

19 SEC. 294. Section 398.2 of the Public Utilities Code is
20 amended to read:

21 398.2. The definitions set forth in this section shall govern the
22 construction of this article.

23 (a) "System operator" means the Independent System Operator
24 with responsibility for the efficient use and reliable operation of
25 the transmission grid, as provided by Section 345, or a local
26 publicly owned electric utility that does not utilize the Independent
27 System Operator.

28 (b) "Specific purchases" means electricity transactions that are
29 traceable to specific generation sources by any auditable contract
30 trail or equivalent, such as a tradable commodity system, that
31 provides commercial verification that the electricity source claimed
32 has been sold once and only once to a retail consumer. Retail
33 suppliers may rely on annual data to meet this requirement, rather
34 than hour-by-hour matching of loads and resources.

35 (c) "Net system power" means the mix of electricity fuel source
36 types established by the Department of Energy representing the
37 sources of electricity consumed in California that are not disclosed
38 as specific purchases pursuant to Section 398.4.

39 SEC. 295. Section 398.3 of the Public Utilities Code is
40 amended to read:

1 398.3. (a) Beginning January 1, 1998, or as soon as practicable
2 thereafter, each generator that provides meter data to a system
3 operator shall report to the system operator electricity generated
4 in kilowatthours by hour by generator, the fuel type or fuel types
5 and fuel consumption by fuel type by month on an historical
6 recorded quarterly basis. Facilities using only one fuel type may
7 satisfy this requirement by reporting fuel type only. With regard
8 to any facility using more than one fuel type, reports shall reflect
9 the fuel consumed as a percentage of electricity generation.

10 (b) The Department of Energy shall have authorization to access
11 the electricity generation data in kilowatthours by hour for each
12 facility that provides meter data to the system operator, and the
13 fuel type or fuel types.

14 (c) With regard to out-of-state generation, the Department of
15 Energy shall have authorization to access the electricity generation
16 data in kilowatthours by hour at the point at which out-of-state
17 generation is metered, to the extent the information has been
18 submitted to a system operator.

19 (d) Trade secrets as defined in subdivision (d) of Section 3426.1
20 of the Civil Code contained in the information provided to the
21 system operators pursuant to this section shall be treated as
22 confidential. These data may be disclosed only by the system
23 operators and only by authorization of the generator except that
24 the Department of Energy shall have authorization to access these
25 data, shall consider all these data to be trade secrets, and shall only
26 release these data in an aggregated form such that trade secrets
27 cannot be discerned.

28 SEC. 296. Section 398.5 of the Public Utilities Code is
29 amended to read:

30 398.5. (a) Retail suppliers that disclose specific purchases
31 pursuant to Section 398.4 shall report on March 1, 1999, and
32 annually thereafter, to the Department of Energy, for each
33 electricity offering, for the previous calendar year each of the
34 following:

35 (1) The kilowatthours purchased, by generator and fuel type
36 during the previous calendar year, consistent with the meter data,
37 including losses, reported to the system operator.

38 (2) For each electricity offering the kilowatthours sold at retail.

39 (3) For each electricity offering the disclosures made to
40 consumers pursuant to Section 398.4.

1 (b) Information submitted to the Department of Energy pursuant
2 to this section that is a trade secret as defined in subdivision (d)
3 of Section 3426.1 of the Civil Code shall not be released except
4 in an aggregated form such that trade secrets cannot be discerned.

5 (c) On or before January 1, 1998, the Department of Energy
6 shall specify guidelines and standard formats, based on the
7 requirements of this article and subject to public hearing, for the
8 submittal of information pursuant to this article.

9 (d) In developing the rules and procedures specified in this
10 section, the Department of Energy shall seek to minimize the
11 reporting burden and cost of reporting that it imposes on retail
12 suppliers.

13 (e) On or before October 15, 1999, and annually thereafter, the
14 Department of Energy shall issue a report comparing information
15 available pursuant to Section 398.3 with information submitted
16 by retail suppliers pursuant to this section, and with information
17 disclosed to consumers pursuant to Section 398.4. This report shall
18 be forwarded to the California Public Utilities Commission.

19 (f) Beginning April 15, 1999, and annually thereafter, the
20 Department of Energy shall issue a report calculating net system
21 power. The department will establish the generation mix for net
22 generation imports delivered at interface points and metered by
23 the system operators. The department shall issue an initial report
24 calculating preliminary net system power for calendar year 1997
25 on or before January 1, 1998. This report shall be updated on or
26 before October 15, 1998.

27 (g) This section does not apply to generators providing electric
28 service onsite, under an over-the-fence transaction as described in
29 Section 218, or to an affiliate or affiliates, as defined in subdivision
30 (a) of Section 372.

31 (h) The Department of Energy may verify the veracity of
32 environmental claims made by retail suppliers.

33 SEC. 297. Section 399.25 of the Public Utilities Code is
34 amended to read:

35 399.25. (a) Notwithstanding any other provision in Sections
36 1001 to 1013, inclusive, an application of an electrical corporation
37 for a certificate authorizing the construction of new transmission
38 facilities shall be deemed to be necessary to the provision of
39 electric service for purposes of any determination made under
40 Section 1003 if the Department of Energy finds that the new facility

1 is necessary to facilitate achievement of the renewable power goals
2 established in Article 16 (commencing with Section 399.11).

3 (b) With respect to a transmission facility described in
4 subdivision (a), the Department of Energy shall take all feasible
5 actions to ensure that the transmission rates established by the
6 Federal Energy Regulatory Commission are fully reflected in any
7 retail rates established by the commission. These actions shall
8 include, but are not limited to:

9 (1) Making findings, where supported by an evidentiary record,
10 that those transmission facilities provide benefit to the transmission
11 network and are necessary to facilitate the achievement of the
12 renewables portfolio standard established in Article 16
13 (commencing with Section 399.11).

14 (2) Directing the utility to which the generator will be
15 interconnected, where the direction is not preempted by federal
16 law, to seek the recovery through general transmission rates of the
17 costs associated with the transmission facilities.

18 (3) Asserting the positions described in paragraphs (1) and (2)
19 to the Federal Energy Regulatory Commission in appropriate
20 proceedings.

21 (c) The commission shall allow recovery in retail rates of any
22 increase in transmission costs incurred by an electrical corporation
23 resulting from the construction of the transmission facilities that
24 are not approved for recovery in transmission rates by the Federal
25 Energy Regulatory Commission after the commission determines
26 that the costs were prudently incurred in accordance with
27 subdivision (a) of Section 454.

28 SEC. 298. Section 399.8 of the Public Utilities Code is
29 amended to read:

30 399.8. (a) In order to ensure that the citizens of this state
31 continue to receive safe, reliable, affordable, and environmentally
32 sustainable electric service, it is the policy of this state and the
33 intent of the Legislature that prudent investments in energy
34 efficiency, renewable energy, and research, development and
35 demonstration shall continue to be made.

36 (b) (1) Every customer of an electrical corporation shall pay a
37 nonbypassable system benefits charge authorized pursuant to this
38 article. The system benefits charge shall fund energy efficiency,
39 renewable energy, and research, development and demonstration.

(2) Local publicly owned electric utilities shall continue to collect and administer system benefits charges pursuant to Section 385.

(c) (1) The commission shall require each electrical corporation to identify a separate rate component to collect revenues to fund energy efficiency, renewable energy, and research, development and demonstration programs authorized pursuant to this section beginning January 1, 2002, and ending January 1, 2012. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.

(2) This rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. If the amounts specified in paragraph (1) of subdivision (d) are not recovered fully in any year, the commission shall reset the rate component to restore the unrecovered balance, provided that the rate component may not exceed, for any tariff schedule, the level of the rate component that was used to recover funds authorized pursuant to Section 381 on January 1, 2000. Pending restoration, any annual shortfalls shall be allocated pro rata among the three funding categories in the proportions established in paragraph (1) of subdivision (d).

(d) The commission shall order San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company to collect these funds commencing on January 1, 2002, as follows:

(1) Two hundred twenty-eight million dollars (\$228,000,000) per year in total for energy efficiency and conservation activities, sixty-five million five hundred thousand dollars (\$65,500,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars (\$62,500,000) in total per year for research, development and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (c) of Section 381.

(2) The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator.

(e) The commission shall ensure that each electrical corporation allocates funds transferred by the department pursuant to

1 subdivision (b) of Section 25743 in a manner that maximizes the
2 economic benefit to all customer classes that funded the New
3 Renewable Resources Account.

4 (f) The commission and the department shall retain and continue
5 their oversight responsibilities as set forth in Sections 381 and 383
6 of this code, and Chapter 7.1 (commencing with Section 25620)
7 and Chapter 8.6 (commencing with Section 25740) of Division 15
8 of the Public Resources Code.

9 (g) An applicant for the Large Nonresidential Standard
10 Performance Contract Program funded pursuant to paragraph (1)
11 of subdivision (b) and an electrical corporation shall promptly
12 attempt to resolve disputes that arise related to the program's
13 guidelines and parameters prior to entering into a program
14 agreement. The applicant shall provide the electrical corporation
15 with written notice of any dispute. Within 10 business days after
16 receipt of the notice, the parties shall meet to resolve the dispute.
17 If the dispute is not resolved within 10 business days after the date
18 of the meeting, the electrical corporation shall notify the applicant
19 of his or her right to file a complaint with the commission, which
20 complaint shall describe the grounds for the complaint, injury, and
21 relief sought. The commission shall issue its findings in response
22 to a filed complaint within 30 business days of the date of receipt
23 of the complaint. Prior to issuance of its findings, the commission
24 shall provide a copy of the complaint to the electrical corporation,
25 which shall provide a response to the complaint to the commission
26 within five business days of the date of receipt. During the dispute
27 period, the amount of estimated financial incentives shall be held
28 in reserve until the dispute is resolved.

29 SEC. 299. Section 399.11 of the Public Utilities Code is
30 amended to read:

31 399.11. The Legislature finds and declares all of the following:

32 (a) In order to attain a target of generating 20 percent of total
33 retail sales of electricity in California from eligible renewable
34 energy resources by December 31, 2010, and for the purposes of
35 increasing the diversity, reliability, public health and environmental
36 benefits of the energy mix, it is the intent of the Legislature that
37 the commission and the Department of Energy implement the
38 California Renewables Portfolio Standard Program described in
39 this article.

(b) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the Department of Energy and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(e) New and modified electric transmission facilities may be necessary to facilitate the state achieving its renewables portfolio standard targets.

SEC. 300. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Conduit hydroelectric facility" means a facility for the generation of electricity that uses only the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for a beneficial use.

(b) "Delivered" and "delivery" have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(c) "Eligible renewable energy resource" means an electric generating facility that meets the definition of "in-state renewable electricity generation facility" in Section 25741 of the Public Resources Code, subject to the following limitations:

(1) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller or local publicly owned electric utility owned or procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility is not an eligible renewable energy resource if it will cause

1 an adverse impact on instream beneficial uses or cause a change
2 in the volume or timing of streamflow.

3 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
4 facility of 30 megawatts or less that commenced operation before
5 January 1, 2006, is an eligible renewable energy resource. A
6 conduit hydroelectric facility of 30 megawatts or less that
7 commences operation after December 31, 2005, is an eligible
8 renewable energy resource so long as it does not cause an adverse
9 impact on instream beneficial uses or cause a change in the volume
10 or timing of streamflow.

11 (2) A facility engaged in the combustion of municipal solid
12 waste shall not be considered an eligible renewable resource unless
13 it is located in Stanislaus County and was operational prior to
14 September 26, 1996.

15 (d) "Procure" means that a retail seller or local publicly owned
16 electric utility receives delivered electricity generated by an eligible
17 renewable energy resource that it owns or for which it has entered
18 into an electricity purchase agreement. Nothing in this article is
19 intended to imply that the purchase of electricity from third parties
20 in a wholesale transaction is the preferred method of fulfilling a
21 retail seller's obligation to comply with this article or the obligation
22 of a local publicly owned electric utility to meet its renewables
23 portfolio standard implemented pursuant to Section 387.

24 (e) "Renewables portfolio standard" means the specified
25 percentage of electricity generated by eligible renewable energy
26 resources that a retail seller is required to procure pursuant to this
27 article or the obligation of a local publicly owned electric utility
28 to meet its renewables portfolio standard implemented pursuant
29 to Section 387.

30 (f) (1) "Renewable energy credit" means a certificate of proof,
31 issued through the accounting system established by the
32 Department of Energy pursuant to Section 399.13, that one unit
33 of electricity was generated and delivered by an eligible renewable
34 energy resource.

35 (2) "Renewable energy credit" includes all renewable and
36 environmental attributes associated with the production of
37 electricity from the eligible renewable energy resource, except for
38 an emissions reduction credit issued pursuant to Section 40709 of
39 the Health and Safety Code and any credits or payments associated

1 with the reduction of solid waste and treatment benefits created
2 by the utilization of biomass or biogas fuels.

3 (3) No electricity generated by an eligible renewable energy
4 resource attributable to the use of nonrenewable fuels, beyond a
5 de minimis quantity, as determined by the Energy Commission,
6 shall result in the creation of a renewable energy credit.

7 (g) “Retail seller” means an entity engaged in the retail sale of
8 electricity to end-use customers located within the state, including
9 any of the following:

10 (1) An electrical corporation, as defined in Section 218.

11 (2) A community choice aggregator. The commission shall
12 institute a rulemaking to determine the manner in which a
13 community choice aggregator will participate in the renewables
14 portfolio standard program subject to the same terms and conditions
15 applicable to an electrical corporation.

16 (3) An electric service provider, as defined in Section 218.3,
17 for all sales of electricity to customers beginning January 1, 2006.
18 The commission shall institute a rulemaking to determine the
19 manner in which electric service providers will participate in the
20 renewables portfolio standard program. The electric service
21 provider shall be subject to the same terms and conditions
22 applicable to an electrical corporation pursuant to this article. This
23 paragraph does not impair a contract entered into between an
24 electric service provider and a retail customer prior to the
25 suspension of direct access by the commission pursuant to Section
26 80110 of the Water Code.

27 (4) “Retail seller” does not include any of the following:

28 (A) A corporation or person employing cogeneration technology
29 or producing electricity consistent with subdivision (b) of Section
30 218.

31 (B) The Department of Water Resources, or its successor, the
32 Department of Energy, acting in its capacity pursuant to Division
33 27 (commencing with Section 80000) of the Water Code.

34 (C) A local publicly owned electric utility.

35 SEC. 301. Section 399.13 of the Public Utilities Code is
36 amended to read:

37 399.13. The department shall do all of the following:

38 (a) Certify eligible renewable energy resources that it determines
39 meet the criteria described in subdivision (c) of Section 399.12.

1 (b) Design and implement an accounting system to verify
2 compliance with the renewables portfolio standard by retail sellers,
3 to ensure that electricity generated by an eligible renewable energy
4 resource is counted only once for the purpose of meeting the
5 renewables portfolio standard of this state or any other state, to
6 certify renewable energy credits produced by eligible renewable
7 energy resources, and to verify retail product claims in this state
8 or any other state. In establishing the guidelines governing this
9 accounting system, the department shall collect data from
10 electricity market participants that it deems necessary to verify
11 compliance of retail sellers, in accordance with the requirements
12 of this article and the California Public Records Act (Chapter 3.5
13 (commencing with Section 6250) of Division 7 of Title 1 of the
14 Government Code). In seeking data from electrical corporations,
15 the department shall request data from the commission. The
16 commission shall collect data from electrical corporations and
17 remit the data to the department within 90 days of the request.

18 (c) Establish a system for tracking and verifying renewable
19 energy credits that, through the use of independently audited data,
20 verifies the generation and delivery of electricity associated with
21 each renewable energy credit and protects against multiple counting
22 of the same renewable energy credit. The department shall consult
23 with other western states and with the Western Electricity
24 Coordinating Council in the development of this system.

25 (d) Certify, for purposes of compliance with the renewable
26 portfolio standard requirements by a retail seller, the eligibility of
27 renewable energy credits associated with deliveries of electricity
28 by an eligible renewable energy resource to a local publicly owned
29 electric utility, if the department determines that the following
30 conditions have been satisfied:

31 (1) The local publicly owned electric utility that is procuring
32 the electricity is in compliance with the requirements of Section
33 387.

34 (2) The local publicly owned electric utility has established an
35 annual renewables portfolio standard target comparable to those
36 applicable to an electrical corporation, is procuring sufficient
37 eligible renewable energy resources to satisfy the targets, and will
38 not fail to satisfy the targets in the event that the renewable energy
39 credit is sold to another retail seller.

1 SEC. 302. Section 399.15 of the Public Utilities Code is
2 amended to read:

3 399.15. (a) In order to fulfill unmet long-term resource needs,
4 the commission shall establish a renewables portfolio standard
5 requiring all electrical corporations to procure a minimum quantity
6 of electricity generated by eligible renewable energy resources as
7 a specified percentage of total kilowatthours sold to their retail
8 end-use customers each calendar year, subject to limits on the total
9 amount of costs expended above the market prices determined in
10 subdivision (c), to achieve the targets established under this article.

11 (b) The commission shall implement annual procurement targets
12 for each retail seller as follows:

13 (1) Each retail seller shall, pursuant to subdivision (a), increase
14 its total procurement of eligible renewable energy resources by at
15 least an additional 1 percent of retail sales per year so that 20
16 percent of its retail sales are procured from eligible renewable
17 energy resources no later than December 31, 2010. A retail seller
18 with 20 percent of retail sales procured from eligible renewable
19 energy resources in any year shall not be required to increase its
20 procurement of renewable energy resources in the following year.

21 (2) For purposes of setting annual procurement targets, the
22 commission shall establish an initial baseline for each retail seller
23 based on the actual percentage of retail sales procured from eligible
24 renewable energy resources in 2001, and to the extent applicable,
25 adjusted going forward pursuant to Section 399.12.

26 (3) Only for purposes of establishing these targets, the
27 commission shall include all electricity sold to retail customers by
28 the Department of Water Resources, or its successor, pursuant to
29 Section 80100 of the Water Code in the calculation of retail sales
30 by an electrical corporation.

31 (4) In the event that a retail seller fails to procure sufficient
32 eligible renewable energy resources in a given year to meet any
33 annual target established pursuant to this subdivision, the retail
34 seller shall procure additional eligible renewable energy resources
35 in subsequent years to compensate for the shortfall, subject to the
36 limitation on costs for electrical corporations established pursuant
37 to subdivision (d).

38 (c) The commission shall establish a methodology to determine
39 the market price of electricity for terms corresponding to the length

1 of contracts with eligible renewable energy resources, in
2 consideration of the following:

3 (1) The long-term market price of electricity for fixed price
4 contracts, determined pursuant to an electrical corporation's general
5 procurement activities as authorized by the commission.

6 (2) The long-term ownership, operating, and fixed-price fuel
7 costs associated with fixed-price electricity from new generating
8 facilities.

9 (3) The value of different products including baseload, peaking,
10 and as-available electricity.

11 (d) The commission shall establish, for each electrical
12 corporation, a limitation on the total costs expended above the
13 market prices determined in subdivision (c) for the procurement
14 of eligible renewable energy resources to achieve the annual
15 procurement targets established under this article.

16 (1) The cost limitation shall be equal to the amount of funds
17 transferred to each electrical corporation by the department
18 pursuant to subdivision (b) of Section 25743 of the Public
19 Resources Code and the 51.5 percent of the funds which would
20 have been collected through January 1, 2012, from the customers
21 of the electrical corporation based on the renewable energy public
22 goods charge in effect as of January 1, 2007.

23 (2) The above-market costs of a contract selected by an electrical
24 corporation may be counted toward the cost limitation if all of the
25 following conditions are satisfied:

26 (A) The contract has been approved by the commission and was
27 selected through a competitive solicitation pursuant to the
28 requirements of subdivision (d) of Section 399.14.

29 (B) The contract covers a duration of no less than 10 years.

30 (C) The contracted project is a new or repowered facility
31 commencing commercial operations on or after January 1, 2005.

32 (D) No purchases of renewable energy credits may be eligible
33 for consideration as an above-market cost.

34 (E) The above-market costs of a contract do not include any
35 indirect expenses including imbalance energy charges, sale of
36 excess energy, decreased generation from existing resources, or
37 transmission upgrades.

38 (3) If the cost limitation for an electrical corporation is
39 insufficient to support the total costs expended above the market
40 prices determined in subdivision (c) for the procurement of eligible

1 renewable energy resources satisfying the conditions of paragraph
2 (2), the commission shall allow the electrical corporation to limit
3 its procurement to the quantity of eligible renewable energy
4 resources that can be procured at or below the market prices
5 established in subdivision (c).

6 (4) This section does not prevent an electrical corporation from
7 voluntarily proposing to procure eligible renewable energy
8 resources at above-market prices that are not counted toward the
9 cost limitation. Any voluntary procurement involving above-market
10 costs shall be subject to commission approval prior to the expense
11 being recovered in rates.

12 (e) The establishment of a renewables portfolio standard shall
13 not constitute implementation by the commission of the federal
14 Public Utility Regulatory Policies Act of 1978 (Public Law
15 95-617).

16 (f) The commission shall consult with the department in
17 calculating market prices under subdivision (c) and establishing
18 other renewables portfolio standard policies.

19 SEC. 303. Section 399.16 of the Public Utilities Code is
20 amended to read:

21 399.16. (a) The commission, by rule, may authorize the use
22 of renewable energy credits to satisfy the requirements of the
23 renewables portfolio standard established pursuant to this article,
24 subject to the following conditions:

25 (1) Prior to authorizing any renewable energy credit to be used
26 toward satisfying annual procurement targets, the commission and
27 the department shall conclude that the tracking system established
28 pursuant to subdivision (c) of Section 399.13, is operational, is
29 capable of independently verifying the electricity generated by an
30 eligible renewable energy resource and delivered to the retail seller,
31 and can ensure that renewable energy credits shall not be double
32 counted by any seller of electricity within the service territory of
33 the Western Electricity Coordinating Council (WECC).

34 (2) A renewable energy credit shall be counted only once for
35 compliance with the renewables portfolio standard of this state or
36 any other state, or for verifying retail product claims in this state
37 or any other state.

38 (3) The electricity is delivered to a retail seller, the Independent
39 System Operator, or a local publicly owned electric utility.

1 (4) All revenues received by an electrical corporation for the
2 sale of a renewable energy credit shall be credited to the benefit
3 of ratepayers.

4 (5) No renewable energy credits shall be created for electricity
5 generated pursuant to any electricity purchase contract with a retail
6 seller or a local publicly owned electric utility executed before
7 January 1, 2005, unless the contract contains explicit terms and
8 conditions specifying the ownership or disposition of those credits.
9 Deliveries under those contracts shall be tracked through the
10 accounting system described in subdivision (b) of Section 399.13
11 and included in the baseline quantity of eligible renewable energy
12 resources of the purchasing retail seller pursuant to Section 399.15.

13 (6) A renewable energy credits shall not be created for electricity
14 generated under any electricity purchase contract executed after
15 January 1, 2005, pursuant to the federal Public Utility Regulatory
16 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries
17 under the electricity purchase contracts shall be tracked through
18 the accounting system described in subdivision (b) of Section
19 399.12 and count toward the renewables portfolio standard
20 obligations of the purchasing retail seller.

21 (7) The commission may limit the quantity of renewable energy
22 credits that may be procured unbundled from electricity generation
23 by any retail seller, to meet the requirements of this article.

24 (8) An electrical corporation shall not be obligated to procure
25 renewable energy credits to satisfy the requirements of this article
26 in the event that the total costs expended above the applicable
27 market prices for the procurement of eligible renewable energy
28 resources exceeds the cost limitation established pursuant to
29 subdivision (d) of Section 399.15.

30 (9) Any additional condition that the commission determines
31 is reasonable.

32 (b) The commission shall allow an electrical corporation to
33 recover the reasonable costs of purchasing renewable energy credits
34 in rates.

35 SEC. 304. Section 411 is added to the Public Utilities Code,
36 to read:

37 411. All fees collected by the commission from electrical
38 corporations and gas corporations to support those functions of
39 the commission in reviewing and issuing certificates of public
40 convenience and necessity that are transferred to the California

1 Energy Commission within the Department of Energy pursuant to
2 subdivision (b) of Section 1001, shall be identified and transferred
3 to the Secretary of Energy, at least quarterly, upon the assumption
4 by the department of those functions.

5 SEC. 305. Section 454.5 of the Public Utilities Code is
6 amended to read:

7 454.5. (a) The commission shall specify the allocation of
8 electricity, including quantity, characteristics, and duration of
9 electricity delivery, that the Department of Water Resources, or
10 its successor, shall provide under its power purchase agreements
11 to the customers of each electrical corporation, which shall be
12 reflected in the electrical corporation's proposed procurement plan.
13 Each electrical corporation shall file a proposed procurement plan
14 with the commission not later than 60 days after the commission
15 specifies the allocation of electricity. The proposed procurement
16 plan shall specify the date that the electrical corporation intends
17 to resume procurement of electricity for its retail customers,
18 consistent with its obligation to serve. After the commission's
19 adoption of a procurement plan, the commission shall allow not
20 less than 60 days before the electrical corporation resumes
21 procurement pursuant to this section.

22 (b) An electrical corporation's proposed procurement plan shall
23 include, but not be limited to, all of the following:

24 (1) An assessment of the price risk associated with the electrical
25 corporation's portfolio, including any utility-retained generation,
26 existing power purchase and exchange contracts, and proposed
27 contracts or purchases under which an electrical corporation will
28 procure electricity, electricity demand reductions, and
29 electricity-related products and the remaining open position to be
30 served by spot market transactions.

31 (2) A definition of each electricity product, electricity-related
32 product, and procurement related financial product, including
33 support and justification for the product type and amount to be
34 procured under the plan.

35 (3) The duration of the plan.

36 (4) The duration, timing, and range of quantities of each product
37 to be procured.

38 (5) A competitive procurement process under which the
39 electrical corporation may request bids for procurement-related

1 services, including the format and criteria of that procurement
2 process.

3 (6) An incentive mechanism, if any incentive mechanism is
4 proposed, including the type of transactions to be covered by that
5 mechanism, their respective procurement benchmarks, and other
6 parameters needed to determine the sharing of risks and benefits.

7 (7) The upfront standards and criteria by which the acceptability
8 and eligibility for rate recovery of a proposed procurement
9 transaction will be known by the electrical corporation prior to
10 execution of the transaction. This shall include an expedited
11 approval process for the commission's review of proposed contracts
12 and subsequent approval or rejection thereof. The electrical
13 corporation shall propose alternative procurement choices in the
14 event a contract is rejected.

15 (8) Procedures for updating the procurement plan.

16 (9) A showing that the procurement plan will achieve the
17 following:

18 (A) The electrical corporation will, in order to fulfill its unmet
19 resource needs and in furtherance of Section 701.3, until a 20
20 percent renewable resources portfolio is achieved, procure
21 renewable energy resources with the goal of ensuring that at least
22 an additional 1 percent per year of the electricity sold by the
23 electrical corporation is generated from renewable energy
24 resources, provided sufficient funds are made available pursuant
25 to Sections 399.6 and 399.15, to cover the above-market costs for
26 new renewable energy resources.

27 (B) The electrical corporation will create or maintain a
28 diversified procurement portfolio consisting of both short-term
29 and long-term electricity and electricity-related and demand
30 reduction products.

31 (C) The electrical corporation will first meet its unmet resource
32 needs through all available energy efficiency and demand reduction
33 resources that are cost effective, reliable, and feasible.

34 (10) The electrical corporation's risk management policy,
35 strategy, and practices, including specific measures of price
36 stability.

37 (11) A plan to achieve appropriate increases in diversity of
38 ownership and diversity of fuel supply of nonutility electrical
39 generation.

1 (12) A mechanism for recovery of reasonable administrative
2 costs related to procurement in the generation component of rates.

3 (c) The commission shall review and accept, modify, or reject
4 each electrical corporation's procurement plan. The commission's
5 review shall consider each electrical corporation's individual
6 procurement situation, and shall give strong consideration to that
7 situation in determining which one or more of the features set forth
8 in this subdivision shall apply to that electrical corporation. A
9 procurement plan approved by the commission shall contain one
10 or more of the following features, provided that the commission
11 may not approve a feature or mechanism for an electrical
12 corporation if it finds that the feature or mechanism would impair
13 the restoration of an electrical corporation's creditworthiness or
14 would lead to a deterioration of an electrical corporation's
15 creditworthiness:

16 (1) A competitive procurement process under which the
17 electrical corporation may request bids for procurement-related
18 services. The commission shall specify the format of that
19 procurement process, as well as criteria to ensure that the auction
20 process is open and adequately subscribed. Any purchases made
21 in compliance with the commission-authorized process shall be
22 recovered in the generation component of rates.

23 (2) An incentive mechanism that establishes a procurement
24 benchmark or benchmarks and authorizes the electrical corporation
25 to procure from the market, subject to comparing the electrical
26 corporation's performance to the commission-authorized
27 benchmark or benchmarks. The incentive mechanism shall be
28 clear, achievable, and contain quantifiable objectives and standards.
29 The incentive mechanism shall contain balanced risk and reward
30 incentives that limit the risk and reward of an electrical corporation.

31 (3) Upfront achievable standards and criteria by which the
32 acceptability and eligibility for rate recovery of a proposed
33 procurement transaction will be known by the electrical corporation
34 prior to the execution of the bilateral contract for the transaction.
35 The commission shall provide for expedited review and either
36 approve or reject the individual contracts submitted by the electrical
37 corporation to ensure compliance with its procurement plan. To
38 the extent the commission rejects a proposed contract pursuant to
39 this criteria, the commission shall designate alternative procurement

1 choices obtained in the procurement plan that will be recoverable
2 for ratemaking purposes.

3 (d) A procurement plan approved by the commission shall
4 accomplish each of the following objectives:

5 (1) Enable the electrical corporation to fulfill its obligation to
6 serve its customers at just and reasonable rates.

7 (2) Eliminate the need for after-the-fact reasonableness reviews
8 of an electrical corporation's actions in compliance with an
9 approved procurement plan, including resulting electricity
10 procurement contracts, practices, and related expenses. However,
11 the commission may establish a regulatory process to verify and
12 assure that each contract was administered in accordance with the
13 terms of the contract, and contract disputes which may arise are
14 reasonably resolved.

15 (3) Ensure timely recovery of prospective procurement costs
16 incurred pursuant to an approved procurement plan. The
17 commission shall establish rates based on forecasts of procurement
18 costs adopted by the commission, actual procurement costs
19 incurred, or combination thereof, as determined by the commission.
20 The commission shall establish power procurement balancing
21 accounts to track the differences between recorded revenues and
22 costs incurred pursuant to an approved procurement plan. The
23 commission shall review the power procurement balancing
24 accounts, not less than semiannually, and shall adjust rates or order
25 refunds, as necessary, to promptly amortize a balancing account,
26 according to a schedule determined by the commission. Until
27 January 1, 2006, the commission shall ensure that any
28 overcollection or undercollection in the power procurement
29 balancing account does not exceed 5 percent of the electrical
30 corporation's actual recorded generation revenues for the prior
31 calendar year excluding revenues collected for the Department of
32 Water Resources, or its successor. The commission shall determine
33 the schedule for amortizing the overcollection or undercollection
34 in the balancing account to ensure that the 5 percent threshold is
35 not exceeded. After January 1, 2006, this adjustment shall occur
36 when deemed appropriate by the commission consistent with the
37 objectives of this section.

38 (4) Moderate the price risk associated with serving its retail
39 customers, including the price risk embedded in its long-term

1 supply contracts, by authorizing an electrical corporation to enter
2 into financial and other electricity-related product contracts.

3 (5) Provide for just and reasonable rates, with an appropriate
4 balancing of price stability and price level in the electrical
5 corporation's procurement plan.

6 (e) The commission shall provide for the periodic review and
7 prospective modification of an electrical corporation's procurement
8 plan.

9 (f) The commission may engage an independent consultant or
10 advisory service to evaluate risk management and strategy. The
11 reasonable costs of any consultant or advisory service is a
12 reimbursable expense and eligible for funding pursuant to Section
13 631.

14 (g) The commission shall adopt appropriate procedures to ensure
15 the confidentiality of any market sensitive information submitted
16 in an electrical corporation's proposed procurement plan or
17 resulting from or related to its approved procurement plan,
18 including, but not limited to, proposed or executed power purchase
19 agreements, data request responses, or consultant reports, or any
20 combination, provided that the Office of Ratepayer Advocates and
21 other consumer groups that are nonmarket participants shall be
22 provided access to this information under confidentiality
23 procedures authorized by the commission.

24 (h) This section does not alter, modify, or amend the
25 commission's oversight of affiliate transactions under its rules and
26 decisions or the commission's existing authority to investigate and
27 penalize an electrical corporation's alleged fraudulent activities,
28 or to disallow costs incurred as a result of gross incompetence,
29 fraud, abuse, or similar grounds. This section does not expand,
30 modify, or limit the Department of Energy's existing authority and
31 responsibilities as set forth in Sections 25216, 25216.5, and 25323
32 of the Public Resources Code.

33 (i) An electrical corporation that serves less than 500,000 electric
34 retail customers within the state may file with the commission a
35 request for exemption from this section, which the commission
36 shall grant upon a showing of good cause.

37 (j) (1) Prior to its approval pursuant to Section 851 of any
38 divestiture of generation assets owned by an electrical corporation
39 on or after September 24, 2002, the commission shall determine
40 the impact of the proposed divestiture on the electrical

1 corporation's procurement rates and shall approve a divestiture
2 only to the extent it finds, taking into account the effect of the
3 divestiture on procurement rates, that the divestiture is in the public
4 interest and will result in net ratepayer benefits.

5 (2) Any electrical corporation's procurement necessitated as a
6 result of the divestiture of generation assets on or after September
7 24, 2002, shall be subject to the mechanisms and procedures set
8 forth in this section only if its actual cost is less than the recent
9 historical cost of the divested generation assets.

10 (3) Notwithstanding paragraph (2), the commission may deem
11 proposed procurement eligible to use the procedures in this section
12 upon its approval of asset divestiture pursuant to Section 851.

13 SEC. 306. Section 464 of the Public Utilities Code is amended
14 to read:

15 464. (a) Reasonable expenditures by transmission owners that
16 are electrical corporations to plan, design, and engineer
17 reconfiguration, replacement, or expansion of transmission facilities
18 are in the public interest and are deemed prudent if made for the
19 purpose of facilitating competition in electric generation markets,
20 ensuring open access and comparable service, or maintaining or
21 enhancing reliability, whether or not these expenditures are for
22 transmission facilities that become operational.

23 (b) The commission and the Office of Energy Market Oversight
24 in the Department of Energy shall jointly facilitate the efforts of
25 the state's transmission owning electrical corporations to obtain
26 authorization from the Federal Energy Regulatory Commission to
27 recover reasonable expenditures made for the purposes stated in
28 subdivision (a).

29 (c) This section does not alter or affect the recovery of the
30 reasonable costs of other electric facilities in rates pursuant to the
31 commission's existing ratemaking authority under this code or
32 pursuant to the Federal Power Act (41 Stats. 1063; 16 U.S.C. Secs.
33 791a, et seq.). The commission may periodically review and adjust
34 depreciation schedules and rates authorized for an electric plant
35 that is under the jurisdiction of the commission and owned by an
36 electrical corporation and periodically review and adjust
37 depreciation schedules and rates authorized for a gas plant that is
38 under the jurisdiction of the commission and owned by a gas
39 corporation, consistent with this code.

1 SEC. 307. Section 848.1 of the Public Utilities Code is
2 amended to read:

3 848.1. (a) No later than 120 days after the effective date of
4 this article, and from time to time thereafter, the recovery
5 corporation shall apply to the commission for a determination that
6 some or all of the recovery corporation's recovery costs may be
7 recovered through fixed recovery amounts, which would be
8 recovery property under this article, and that any portion of the
9 recovery corporation's federal and State of California income and
10 franchise taxes associated with those fixed recovery amounts and
11 not financed from proceeds of recovery bonds be recovered through
12 fixed recovery tax amounts. The recovery corporation may request
13 this determination by the commission in a separate proceeding or
14 in an existing proceeding, or both. The recovery corporation shall
15 in its application specify that consumers within its service territory
16 would benefit from reduced rates on a present value basis through
17 the issuance of recovery bonds. The commission shall designate
18 fixed recovery amounts and any associated fixed recovery tax
19 amounts as recoverable in one or more financing orders if the
20 commission determines, as part of its findings in connection with
21 the financing order, that the designation of the fixed recovery
22 amounts and any associated fixed recovery tax amounts, and the
23 issuance of recovery bonds in connection with fixed recovery
24 amounts, would reduce the rates on a present value basis that
25 consumers within the recovery corporation's service territory would
26 pay if the financing order were not adopted. Fixed recovery
27 amounts and any associated fixed recovery tax amounts shall only
28 be imposed on existing and future consumers in the service
29 territory. Consumers within the service territory shall continue to
30 pay fixed recovery amounts and any associated fixed tax recovery
31 amounts until the recovery bonds are paid in full by the financing
32 entity. Once the recovery bonds have been paid in full, the payment
33 by consumers of fixed recovery amounts and fixed recovery tax
34 amounts shall terminate.

35 (b) The commission shall establish an effective mechanism that
36 ensures recovery of recovery costs through fixed recovery amounts
37 and any associated fixed recovery tax amounts from existing and
38 future consumers in the service territory, except the costs shall not
39 be recoverable from any of the following:

1 (1) New load or incremental load of an existing consumer of
2 the recovery corporation where the load is being met through a
3 direct transaction and the transaction does not require the use of
4 transmission or distribution facilities owned by the recovery
5 corporation.

6 (2) Customer Generation departing load that is exempt from
7 Department of Water Resources power charges pursuant to the
8 commission's Decision No. 03-04-030, as modified by Decision
9 No. 03-04-041, and as clarified and affirmed by Decision No.
10 03-05-039, except that the load shall pay the costs as a component
11 of and in proportion to any purchase of electricity delivered by the
12 recovery corporation under standby or other service made following
13 its departure.

14 (3) The Department of Water Resources, or its successor for
15 this purpose, the Department of Energy, with respect to the
16 pumping, generation, and transmission facilities and operations of
17 the State Water Resources Development System, except to the
18 extent that system facilities receive electric service from the
19 recovery corporation on or after December 19, 2003, under a
20 commission approved tariff.

21 (4) Retail electric load, continuously served by a local publicly
22 owned electric utility from January 1, 2000, through the effective
23 date of the act adding this section.

24 (5) Load that thereafter comes to take electric service from a
25 city where all the following conditions are met:

26 (A) The new load is from locations that never received electric
27 service from the recovery corporation.

28 (B) The city owns and operates the local publicly owned electric
29 utility.

30 (C) The local publicly owned electric utility served more than
31 95 percent of the customers receiving electric service residing
32 within the city limits prior to December 19, 2003.

33 (D) The city annexed the territory in which the load is located
34 on or after December 19, 2003.

35 (E) Following annexation, the city provides all municipal
36 services to the annexed territory that the city provides to other
37 territory within the city limits, including electric service.

38 (F) The total load exempt from paying fixed recovery amounts
39 and associated fixed recovery tax amounts pursuant to
40 subparagraphs (A) through (D), inclusive, does not exceed 50

1 megawatts, as determined by the commission, and any load above
2 the 50 megawatt exemption amount shall be responsible for paying
3 recovery amounts and associated fixed recovery tax amounts,
4 except as provided in subdivision (c).

5 (c) Except as provided in paragraphs (4) and (5) of subdivision
6 (b), the commission shall determine the extent to which fixed
7 recovery amounts and any associated fixed recovery tax amounts
8 are recoverable from new municipal load, consistent with the
9 commission's determination in the limited rehearing granted in
10 Decision 03-08-076. The determination of the commission shall
11 be made on the earlier of the date it adopts a financing order or
12 December 31, 2004.

13 (d) Except as provided in paragraphs (4) and (5) of subdivision
14 (b) and in subdivision (c), the obligation to pay fixed recovery
15 amounts and any associated fixed recovery tax amounts cannot be
16 avoided by the formation of a local publicly owned electric utility
17 on or after December 19, 2003, or by annexation of any portion
18 of the service territory of the recovery corporation by an existing
19 local publicly owned electric utility.

20 (e) Recovery bonds authorized by the commission's financing
21 orders may be issued in one or more series on or before December
22 31, 2006.

23 (f) The commission may issue financing orders in accordance
24 with this article to facilitate the recovery, financing, or refinancing
25 of recovery costs. A financing order may be adopted only upon
26 the application of the recovery corporation and shall become
27 effective in accordance with its terms only after the recovery
28 corporation files with the commission the recovery corporation's
29 written consent to all terms and conditions of the financing order.
30 A financing order may specify how amounts collected from a
31 consumer shall be allocated between fixed recovery amounts, any
32 associated fixed recovery tax amounts, and other charges.

33 (g) Notwithstanding Section 455.5 or 1708, or any other
34 provision of law, except as otherwise provided in Section 848.7
35 or in this subdivision with respect to recovery property that has
36 been made the basis for the issuance of recovery bonds and with
37 respect to any associated fixed recovery tax amounts, the financing
38 order, the fixed recovery amounts and any associated fixed
39 recovery tax amounts shall be irrevocable, and the commission
40 shall not have authority either by rescinding, altering, or amending

the financing order or otherwise, to revalue or revise for ratemaking purposes, the recovery costs or the costs of recovering, financing, or refinancing the recovery costs, determine that the fixed recovery amounts, any associated fixed recovery tax amounts or rates are unjust or unreasonable, or in any way reduce or impair the value of recovery property or of the right to receive any associated fixed recovery tax amounts either directly or indirectly by taking fixed recovery amounts or any associated fixed recovery tax amounts into account when setting other rates for the recovery corporation or when setting charges for the Department of Water Resources, or its successor for this purpose, the Department of Energy; nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement, or termination. Except as otherwise provided in this subdivision, the State of California does hereby pledge and agree with the recovery corporation, owners of recovery property, and holders of recovery bonds that the state shall neither limit nor alter the fixed recovery amounts, any associated fixed recovery tax amounts, recovery property, financing orders, or any rights thereunder until the recovery bonds, together with the interest thereon, are fully paid and discharged, and any associated fixed recovery tax amounts have been satisfied or, in the alternative, have been refinanced through an additional issue of recovery bonds. However, this section does not preclude this limitation or alteration if and when adequate provision is made by law for the protection of the recovery corporation, owners, and holders. The financing entity is authorized to include this pledge and undertaking for the state in these recovery bonds. Notwithstanding any other provision of this section, the commission shall approve adjustments to the fixed recovery amounts and any associated fixed recovery tax amounts as may be necessary to ensure timely recovery of all recovery costs that are the subject of the pertinent financing order, and the costs of capital associated with the recovery, financing, or refinancing thereof, including servicing and retiring the recovery bonds contemplated by the financing order. When setting other rates for the recovery corporation, this subdivision does not prevent the commission from taking into account either of the following:

(1) Any collection of fixed recovery amounts in excess of amounts actually required to pay recovery costs financed or refinanced by recovery bonds.

(2) Any collection of fixed recovery tax amounts in excess of amounts actually required to pay federal and State of California income and franchise taxes associated with fixed recovery amounts; provided that this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, either of the following:

(A) Treating the recovery bonds as debt of the recovery corporation or its affiliates for federal income tax purposes.

(B) Treating the transfer of the recovery property by the recovery corporation as a true sale for bankruptcy purposes.

(h) (1) Financing orders issued under this article do not constitute a debt or liability of the state or of any political subdivision thereof, and do not constitute a pledge of the full faith and credit of the state or any of its political subdivisions, but are payable solely from the funds provided therefor under this article and shall be consistent with Sections 1 and 18 of Article XVI of the California Constitution. This subdivision shall in no way preclude bond guarantees or enhancements pursuant to this article. All recovery bonds shall contain on the face thereof a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this bond."

(2) The issuance of recovery bonds under this article shall not directly, indirectly, or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment.

(i) The commission shall establish procedures for the expeditious processing of applications for financing orders, including the approval or disapproval thereof within 120 days of the recovery corporation making application therefor. The commission shall provide in any financing order for a procedure for the expeditious approval by the commission of periodic adjustments to the fixed recovery amounts and any associated fixed recovery tax amounts that are the subject of the pertinent financing order, as required by subdivision (g). The procedure shall require the commission to determine whether the adjustments are required on each anniversary of the issuance of the financing order, and at the additional intervals as may be provided for in the financing order, and for the adjustments, if required, to be approved within 90 days of each

1 anniversary of the issuance of the financing order, or of each
2 additional interval provided for in the financing order.

3 (j) Fixed recovery amounts are recovery property when, and to
4 the extent that, a financing order authorizing the fixed recovery
5 amounts has become effective in accordance with this article, and
6 the recovery property shall thereafter continuously exist as property
7 for all purposes with all of the rights and privileges of this article
8 for the period and to the extent provided in the financing order,
9 but in any event until the recovery bonds are paid in full, including
10 all principal, interest, premium, costs, and arrearages thereon.

11 (k) This article and any financing order made pursuant to this
12 article do not amend, reduce, modify, or otherwise affect the right
13 of the Department of Water Resources, or its successor for this
14 purpose, the Department of Energy, to recover its revenue
15 requirements and to receive the charges that it is to recover and
16 receive pursuant to Division 27 (commencing with Section 80000)
17 of the Water Code, or pursuant to any agreement entered into by
18 the commission and the department pursuant to that division.

19 SEC. 308. Section 1001 of the Public Utilities Code is amended
20 to read:

21 1001. (a) (1) A railroad corporation whose railroad is operated
22 primarily by electric energy or a street railroad corporation, gas
23 corporation, electrical corporation, telegraph corporation, telephone
24 corporation, water corporation, or sewer system corporation shall
25 not begin the construction of a street railroad, or of a line, plant,
26 or system, or of any extension thereof, without having first obtained
27 from the commission a certificate that the present or future public
28 convenience and necessity require or will require that construction.

29 (2) This article shall not be construed to require any corporation
30 described in paragraph (1) to secure a certificate for an extension
31 within any city or city and county within which it has theretofore
32 lawfully commenced operations, or for an extension into territory
33 either within or without a city or city and county contiguous to its
34 street railroad, or line, plant, or system, and not theretofore served
35 by a public utility of like character, or for an extension within or
36 to territory already served by it, necessary in the ordinary course
37 of its business. If any public utility, in constructing or extending
38 its line, plant, or system, interferes or is about to interfere with the
39 operation of the line, plant, or system of any other public utility
40 or of the water system of a public agency, already constructed, the

1 commission, on complaint of the public utility or public agency
2 claiming to be injuriously affected, may, after hearing, make an
3 order and prescribe terms and conditions for the location of the
4 lines, plants, or systems affected as to it may seem just and
5 reasonable.

6 (b) Notwithstanding subdivision (a) or any other provision of
7 law, all responsibilities of the commission with respect to the
8 certification of an electric transmission line, plant, or system, or
9 any extension thereof, carrying electricity to the interconnected
10 grid, or that is part of the interconnected grid, but not including
11 electric distribution facilities, are hereby transferred to the exclusive
12 jurisdiction of the Secretary of Energy, in consultation with the
13 California Energy Commission. All applications for certification
14 regarding a line, facility, plant, or system described in this
15 subdivision shall be heard and decided by the California Energy
16 Commission within the department. A decision of the department
17 or the California Energy Commission with respect to matters
18 transferred pursuant to this subdivision shall be conclusive as to
19 all matters determined.

20 (c) For the purposes of this section, an electric line, plant, or
21 system, or extension thereof, shall be considered “electric
22 transmission” for either of the following:

23 (1) It has a maximum rated voltage of 200 kilovolts or greater.

24 (2) It has a maximum rated voltage of 100 kilovolts or greater
25 and certification is sought following inclusion of that facility as
26 an element of a final transmission expansion plan for the
27 Independent System Operator.

28 (d) In hearing and deciding an application pursuant to this
29 section, the California Energy Commission shall consider and
30 make any necessary findings on all factors required by Sections
31 1001 to 1005.5, inclusive, and any other provision of law, including
32 the anticipated effects of any proposed project on consumer rates,
33 on the environment, and on the public benefits expected to result
34 from any project.

35 (e) The Department of Energy, in consultation with the Public
36 Utilities Commission, shall promptly establish a mechanism for
37 the Public Utilities Commission to timely advise the department
38 regarding the retail rate impacts of the decision made by the
39 California Energy Commission and the department.

1 SEC. 309. Section 1731 of the Public Utilities Code is amended
2 to read:

3 1731. (a) The commission shall set an effective date when
4 issuing an order or decision. The commission may set the effective
5 date of an order or decision prior to the date of issuance of the
6 order or decision.

7 (b) (1) After any order or decision has been made by the
8 commission, any party to the action or proceeding, or any
9 stockholder or bondholder or other party pecuniarily interested in
10 the public utility affected, may apply for a rehearing in respect to
11 any matters determined in the action or proceeding and specified
12 in the application for rehearing. The commission may grant and
13 hold a rehearing on those matters, if in its judgment sufficient
14 reason is made to appear. No cause of action arising out of any
15 order or decision of the commission shall accrue in any court to
16 any corporation or person unless the corporation or person has
17 filed an application to the commission for a rehearing within 30
18 days after the date of issuance or within 10 days after the date of
19 issuance in the case of an order issued pursuant to either Article
20 5 (commencing with Section 816) or Article 6 (commencing with
21 Section 851) of Chapter 4 relating to security transactions and the
22 transfer or encumbrance of utility property.

23 (2) The commission shall notify the parties of the issuance of
24 an order or decision by either mail or electronic transmission.
25 Notification of the parties may be accomplished by one of the
26 following methods:

27 (A) Mailing the order or decision to the parties to the action or
28 proceeding.

29 (B) If a party to an action or proceeding consents in advance to
30 receive notice of any order or decision related to the action or
31 proceeding by electronic mail address, notification of the party
32 may be accomplished by transmitting an electronic copy of the
33 official version of the order or decision to the party if the party
34 has provided an electronic mail address to the commission.

35 (C) If a party to an action or proceeding consents in advance to
36 receive notice of any order or decision related to the action or
37 proceeding by electronic mail address, notification of the party
38 may be accomplished by transmitting a link to an Internet Web
39 site where the official version of the order or decision is readily

1 available to the party if the party has provided an electronic mail
2 address to the commission.

3 (3) For the purposes of this article, “date of issuance” means
4 the mailing or electronic transmission date that is stamped on the
5 official version of the order or decision

6 (c) No cause of action arising out of any order or decision of
7 the commission construing, applying, or implementing the
8 provisions of Chapter 4 of the Statutes of the 2001–02 First
9 Extraordinary Session that (1) relates to the determination or
10 implementation of the department’s revenue requirements, or the
11 establishment or implementation of bond or power charges
12 necessary to recover those revenue requirements, or (2) in the sole
13 determination of the Department of Water Resources, or its
14 successor for this purpose, the Department of Energy, the expedited
15 review of order or decision of the commission is necessary or
16 desirable, for the maintenance of any credit ratings on any bonds
17 or notes of the department issued pursuant to Division 27
18 (commencing with Section 80000) of the Water Code or for the
19 department to meet its obligations with respect to any bonds or
20 notes pursuant to that division, shall accrue in any court to any
21 corporation or person unless the corporation or person has filed
22 an application with the commission for a rehearing within 10 days
23 after the date of issuance of the order or decision. The Department
24 of Water Resources, or its successor for this purpose, shall notify
25 the commission of any determination pursuant to paragraph (2) of
26 this subdivision prior to the issuance by the commission of any
27 order or decision construing, applying, or implementing the
28 provisions of Chapter 4 of the Statutes of the 2001–02 First
29 Extraordinary Session. The commission shall issue its decision
30 and order on rehearing within 20 days after the filing of the
31 application.

32 SEC. 310. Section 1768 of the Public Utilities Code is amended
33 to read:

34 1768. The following procedures shall apply to judicial review
35 of an order or decision of the commission interpreting,
36 implementing, or applying the provisions of Chapter 4 of the
37 Statutes of the 2001–02 First Extraordinary Session that (1) relates
38 to the determination or implementation of the revenue requirements
39 of the Department of Water Resources, or its successor for this
40 purpose, the Department of Energy, or the establishment or

1 implementation of bond or power charges necessary to recover
2 those revenue requirements, or (2) in the sole determination of the
3 department, the expedited review of an order or decision of the
4 commission is necessary or desirable, for the maintenance of any
5 credit ratings on any bonds or notes of the department issued
6 pursuant to Division 27 (commencing with Section 80000) of the
7 Water Code or for the department to meet its obligations with
8 respect to any bonds or notes pursuant to that division:

9 (a) Within 30 days after the commission issues its order or
10 decision denying the application for a rehearing, or, if the
11 application is granted, then within 30 days after the commission
12 issues its decision on rehearing, any aggrieved party may petition
13 for a writ of review in the California Supreme Court for the purpose
14 of determining the lawfulness of the original order or decision or
15 of the order or decision on rehearing. If the writ issues, it shall be
16 made returnable at a time and place specified by court order and
17 shall direct the commission to certify its record in the case to the
18 court within the time specified. No order of the commission
19 interpreting, implementing, or applying the provisions of Chapter
20 4 of the Statutes of the 2001–02 First Extraordinary Session shall
21 be subject to review in the courts of appeal.

22 (b) The petition for review shall be served upon the executive
23 director and the general counsel of the commission either
24 personally or by service at the office of the commission.

25 (c) For purposes of this section, the issuance of a decision or
26 the granting of an application shall be construed to have occurred
27 on the date of issuance, as defined in paragraph (4) of subdivision
28 (b) of Section 1731.

29 (d) All actions and proceedings under this section and all actions
30 or proceedings to which the commission or the people of the State
31 of California are parties in which any question arises under this
32 section, or under or concerning any order or decision of the
33 commission under this section, shall be preferred over, and shall
34 be heard and determined in preference to, all other civil business
35 except election causes, irrespective of position on the calendar.

36 (e) The provisions of this article apply to actions under this
37 section to the extent that those provisions are not in conflict with
38 this section.

39 SEC. 311. Section 1822 of the Public Utilities Code is amended
40 to read:

1 1822. (a) Any computer model that is the basis for any
2 testimony or exhibit in a hearing or proceeding before the
3 commission shall be available to, and subject to verification by,
4 the commission and parties to the hearing or proceedings to the
5 extent necessary for cross-examination or rebuttal, subject to
6 applicable rules of evidence, except that verification is not required
7 for any electricity demand model or forecast prepared by the
8 Department of Energy pursuant to Section 25309 or 25402.1 of
9 the Public Resources Code and approved and adopted after a
10 hearing during which testimony was offered subject to
11 cross-examination. The commission shall afford each of these
12 electricity demand models or forecasts the evidentiary weight it
13 determines appropriate. This subdivision does not require the
14 department to approve or adopt any electricity demand model or
15 forecast.

16 (b) Testimony presented in a hearing or proceeding before the
17 commission that is based in whole, or in part, on a computer model
18 shall include a listing of all the equations and assumptions built
19 into the model.

20 (c) A database that is used for any testimony or exhibit in a
21 hearing or proceeding before the commission shall be reasonably
22 accessible to the commission staff and parties to the hearing or
23 proceeding to the extent necessary for cross-examination or
24 rebuttal, subject to applicable rules of evidence, as applied in
25 commission proceedings.

26 (d) The commission shall adopt rules and procedures to meet
27 the requirements specified in subdivisions (a), (b), and (c). These
28 rules shall include procedural safeguards that protect databases
29 and models not owned by the public utility.

30 (e) The commission shall establish appropriate procedures for
31 determining the appropriate level of compensation for a party's
32 access.

33 (f) Each party shall have access to the computer programs and
34 models of each other party to the extent provided by Section 1822.
35 The commission shall not require a utility to provide a remote
36 terminal or other direct physical link to the computer systems of
37 a utility to a third party.

38 (g) The commission shall verify, validate, and review the
39 computer models of any electric corporation that are used for the
40 purpose of planning, operating, constructing, or maintaining the

1 corporation's electricity transmission system, and that are the basis
2 for testimony and exhibits in hearings and proceedings before the
3 commission.

4 (h) The transmission computer models shall be available to, and
5 subject to verification by, each party to a commission proceeding
6 in accordance with subdivision (a) of Section 1822, and regulations
7 adopted pursuant to subdivision (d) of Section 1822.

8 SEC. 312. Section 2774.6 of the Public Utilities Code is
9 amended to read:

10 2774.6. The commission, in consultation with the Department
11 of Energy, shall develop a program for residential and commercial
12 customer air-conditioning load control, as an element of each
13 electrical corporation's tariffed service offerings paid for with
14 electric rates. The goal of the program shall be to contribute to the
15 adequacy of electricity supply and to help customers reduce their
16 electric bills in a cost-effective manner. The program may include
17 peak load reduction programs for residential and commercial
18 air-conditioning systems, if the commission determines that the
19 inclusion would be cost effective.

20 SEC. 313. Section 2826.5 of the Public Utilities Code is
21 amended to read:

22 2826.5. (a) As used in this section, the following terms have
23 the following meanings:

24 (1) "Benefiting account" means an electricity account, or more
25 than one account, mutually agreed upon by Pacific Gas and Electric
26 Company and the City of Davis.

27 (2) "Bill credit" means credits calculated based upon the
28 electricity generation component of the rate schedule applicable
29 to a benefiting account, as applied to the net metered quantities of
30 electricity.

31 (3) "PVUSA" means the photovoltaic electricity generation
32 facility selected by the City of Davis, located at 24662 County
33 Road, Davis, California, with a rated peak electricity generation
34 capacity of 600 kilowatts, and as it may be expanded, not to exceed
35 one megawatt of peak generation capacity.

36 (4) "Net metered" means the electricity output from the PVUSA.

37 (5) "Environmental attributes" associated with the PVUSA
38 include, but are not limited to, the credits, benefits, emissions
39 reductions, environmental air quality credits, and emissions
40 reduction credits, offsets, and allowances, however entitled

1 resulting from the avoidance of the emission of any gas, chemical,
2 or other substance attributable to the PVUSA.

3 (b) The City of Davis may elect to designate a benefiting
4 account, or more than one account, to receive bill credit for the
5 electricity generated by the PVUSA, if all of the following
6 conditions are met:

7 (1) A benefiting account receives service under a time-of-use
8 rate schedule.

9 (2) The electricity output of the PVUSA is metered for time of
10 use to allow allocation of each bill credit to correspond to the
11 time-of-use period of a benefiting account.

12 (3) All costs associated with the metering requirements of
13 paragraphs (1) and (2) are the responsibility of the City of Davis.

14 (4) All electricity delivered to the electrical grid by the PVUSA
15 is the property of Pacific Gas and Electric Company.

16 (5) PVUSA does not sell electricity delivered to the electrical
17 grid to a third party.

18 (6) The right, title, and interest in the environmental attributes
19 associated with the electricity delivered to the electrical grid by
20 the PVUSA are the property of Nuon Renewable Ventures USA,
21 LLC.

22 (c) A benefiting account shall be billed on a monthly basis, as
23 follows:

24 (1) For all electricity usage, the rate schedule applicable to the
25 benefiting account, including any surcharge, exit fee, or other cost
26 recovery mechanism, as determined by the commission, to
27 reimburse the Department of Water Resources, or its successor
28 for this purpose, the Department of Energy, for purchases of
29 electricity, pursuant to Division 27 (commencing with Section
30 80000) of the Water Code.

31 (2) The rate schedule for the benefiting account shall also
32 provide credit for the generation component of the time-of-use
33 rates for the electricity generated by the PVUSA that is delivered
34 to the electrical grid. The generation component credited to the
35 benefiting account may not include the surcharge, exit fee, or other
36 cost recovery mechanism, as determined by the commission, to
37 reimburse the Department of Water Resources, or its successor
38 for this purpose, the Department of Energy, for purchases of
39 electricity, pursuant to Division 27 (commencing with Section
40 80000) of the Water Code.

1 (3) If in any billing cycle, the charge pursuant to paragraph (1)
2 for electricity usage exceeds the billing credit pursuant to paragraph
3 (2), the City of Davis shall be charged for the difference.

4 (4) If in any billing cycle, the billing credit pursuant to paragraph
5 (2), exceeds the charge for electricity usage pursuant to paragraph
6 (1), the difference shall be carried forward as a credit to the next
7 billing cycle.

8 (5) After the electricity usage charge pursuant to paragraph (1)
9 and the credit pursuant to paragraph (2) are determined for the last
10 billing cycle of a calendar year, any remaining credit resulting
11 from the application of this section shall be reset to zero.

12 (d) Not more frequently than once per year, and upon providing
13 Pacific Gas and Electric Company with a minimum of 60 days
14 notice, the City of Davis may elect to change a benefiting account.
15 Any credit resulting from the application of this section earned
16 prior to the change in a benefiting account that has not been used
17 as of the date of the change in the benefit account, shall be applied,
18 and may only be applied, to a benefiting account as changed.

19 (e) Pacific Gas and Electric Company shall file an advice letter
20 with the Public Utilities Commission, that complies with this
21 section, not later than 10 days after the effective date of this section,
22 proposing a rate tariff for a benefiting account. The commission,
23 within 30 days of the date of filing, shall approve the proposed
24 tariff, or specify conforming changes to be made by Pacific Gas
25 and Electric Company to be filed in a new advice letter.

26 (f) The City of Davis may terminate its election pursuant to
27 subdivision (b), upon providing Pacific Gas and Electric Company
28 with a minimum of 60 days notice. Should the City of Davis sell
29 its interest in the PVUSA, or sell the electricity generated by the
30 PVUSA, in a manner other than required by this section, upon the
31 date of either event, and the earliest date if both events occur, no
32 further bill credit pursuant to paragraph (2) of subdivision (b) may
33 be earned. Only credit earned prior to that date shall be made to a
34 benefiting account.

35 (g) The Legislature finds and declares that credit for a benefiting
36 account for the electricity output from the PVUSA are in the public
37 interest in order to value the production of this unique, wholly
38 renewable resource electricity generation facility located in, and
39 owned in part by, the City of Davis. Because of the unique
40 circumstances applicable only to the PVUSA a statute of general

1 applicability cannot be enacted within the meaning of subdivision
2 (b) of Section 16 of Article IV of the California Constitution.
3 Therefore, this special statute is necessary.

4 SEC. 314. Section 2827 of the Public Utilities Code is amended
5 to read:

6 2827. (a) The Legislature finds and declares that a program
7 to provide net energy metering, co-energy metering, and wind
8 energy co-metering for eligible customer-generators is one way
9 to encourage substantial private investment in renewable energy
10 resources, stimulate in-state economic growth, reduce demand for
11 electricity during peak consumption periods, help stabilize
12 California's energy supply infrastructure, enhance the continued
13 diversification of California's energy resource mix, and reduce
14 interconnection and administrative costs for electricity suppliers.

15 (b) As used in this section, the following terms have the
16 following meanings:

17 (1) "Co-energy metering" means a program that is the same in
18 all other respects as a net energy metering program, except that
19 the local publicly owned electric utility has elected to apply a
20 generation-to-generation energy and time-of-use credit formula
21 as provided in subdivision (i).

22 (2) "Electrical cooperative" means an electrical cooperative as
23 defined in Section 2776.

24 (3) "Electric distribution utility or cooperative" means an
25 electrical corporation, a local publicly owned electric utility, or an
26 electrical cooperative, or any other entity, except an electric service
27 provider, that offers electrical service. This section does not apply
28 to a local publicly owned electric utility that serves more than
29 750,000 customers and that also conveys water to its customers.

30 (4) "Eligible customer-generator" means a residential, small
31 commercial customer as defined in subdivision (h) of Section 331,
32 commercial, industrial, or agricultural customer of an electricity
33 distribution utility or cooperative, who uses a solar or a wind
34 turbine electrical generating facility, or a hybrid system of both,
35 with a capacity of not more than one megawatt that is located on
36 the customer's owned, leased, or rented premises, is interconnected
37 and operates in parallel with the electric grid, and is intended
38 primarily to offset part or all of the customer's own electrical
39 requirements.

1 (5) “Net energy metering” means measuring the difference
2 between the electricity supplied through the electric grid and the
3 electricity generated by an eligible customer-generator and fed
4 back to the electric grid over a 12-month period as described in
5 subdivision (h). An eligible customer-generator who already owns
6 an existing solar or wind turbine electrical generating facility, or
7 a hybrid system of both, is eligible to receive net energy metering
8 service in accordance with this section.

9 (6) “Ratemaking authority” means, for an electrical corporation,
10 electrical cooperative, or electric service provider, the commission,
11 and for a local publicly owned electric utility, the local elected
12 body responsible for setting the rates of the local publicly owned
13 utility.

14 (7) “Wind energy co-metering” means any wind energy project
15 greater than 50 kilowatts, but not exceeding one megawatt, where
16 the difference between the electricity supplied through the electric
17 grid and the electricity generated by an eligible customer-generator
18 and fed back to the electric grid over a 12-month period is as
19 described in subdivision (h). Wind energy co-metering shall be
20 accomplished pursuant to Section 2827.8.

21 (c) (1) Every electricity distribution utility or cooperative shall
22 develop a standard contract or tariff providing for net energy
23 metering, and shall make this standard contract or tariff available
24 to eligible customer-generators, upon request, on a
25 first-come-first-served basis until the time that the total rated
26 generating capacity used by eligible customer-generators exceeds
27 2.5 percent of the electricity distribution utility or cooperative’s
28 aggregate customer peak demand. Net energy metering shall be
29 accomplished using a single meter capable of registering the flow
30 of electricity in two directions. An additional meter or meters to
31 monitor the flow of electricity in each direction may be installed
32 with the consent of the customer-generator, at the expense of the
33 electricity distribution utility or cooperative, and the additional
34 metering shall be used only to provide the information necessary
35 to accurately bill or credit the customer-generator pursuant to
36 subdivision (h), or to collect solar or wind electric generating
37 system performance information for research purposes. If the
38 existing electrical meter of an eligible customer-generator is not
39 capable of measuring the flow of electricity in two directions, the
40 customer-generator shall be responsible for all expenses involved

1 in purchasing and installing a meter that is able to measure
2 electricity flow in two directions. If an additional meter or meters
3 are installed, the net energy metering calculation shall yield a result
4 identical to that of a single meter.

5 (2) (A) On an annual basis, beginning in 2003, every electricity
6 distribution utility or cooperative shall make available to the
7 ratemaking authority information on the total rated generating
8 capacity used by eligible customer-generators that are customers
9 of that provider in the provider's service area.

10 (B) An electric service provider operating pursuant to Section
11 394 shall make available to the ratemaking authority the
12 information required by this paragraph for each eligible
13 customer-generator that is their customer for each service area of
14 an electric corporation, local publicly owned electric utility, or
15 electrical cooperative, in which the customer has net energy
16 metering.

17 (C) The ratemaking authority shall develop a process for making
18 the information required by this paragraph available to electricity
19 distribution utilities and cooperatives, and for using that
20 information to determine when, pursuant to paragraphs (1) and
21 (3), an electricity distribution utility or cooperative is not obligated
22 to provide net energy metering to additional customer-generators
23 in its service area.

24 (3) An electricity distribution utility or cooperative is not
25 obligated to provide net energy metering to additional
26 customer-generators in its service area when the combined total
27 peak demand of all customer-generators served by all the electricity
28 distribution utilities or cooperatives in that service area furnishing
29 net energy metering to eligible customer-generators exceeds 2.5
30 percent of the aggregate customer peak demand of those electricity
31 distribution utilities or cooperatives.

32 (4) By January 1, 2010, the commission, in consultation with
33 the Energy Commission, shall submit a report to the Governor and
34 the Legislature on the costs and benefits of net energy metering,
35 wind energy co-metering, and co-energy metering to participating
36 customers and nonparticipating customers and with options to
37 replace the economic costs and benefits of net energy metering,
38 wind energy co-metering, and co-energy metering with a
39 mechanism that more equitably balances the interests of
40 participating and nonparticipating customers, and that incorporates

1 the findings of the report on economic and environmental costs
2 and benefits of net metering required by subdivision (n).

3 (d) Every electricity distribution utility or cooperative shall
4 make all necessary forms and contracts for net energy metering
5 service available for download from the Internet.

6 (e) (1) Every electricity distribution utility or cooperative shall
7 ensure that requests for establishment of net energy metering are
8 processed in a time period not exceeding that for similarly situated
9 customers requesting new electric service, but not to exceed 30
10 working days from the date it receives a completed application
11 form for net energy metering service, including a signed
12 interconnection agreement from an eligible customer-generator
13 and the electric inspection clearance from the governmental
14 authority having jurisdiction.

15 (2) Every electricity distribution utility or cooperative shall
16 ensure that requests for an interconnection agreement from an
17 eligible customer-generator are processed in a time period not to
18 exceed 30 working days from the date it receives a completed
19 application form from the eligible customer-generator for an
20 interconnection agreement.

21 (3) If an electricity distribution utility or cooperative is unable
22 to process a request within the allowable timeframe pursuant to
23 paragraph (1) or (2), it shall notify the eligible customer-generator
24 and the ratemaking authority of the reason for its inability to
25 process the request and the expected completion date.

26 (f) (1) If a customer participates in direct transactions pursuant
27 to paragraph (1) of subdivision (b) of Section 365 with an electric
28 service provider that does not provide distribution service for the
29 direct transactions, the electricity distribution utility or cooperative
30 that provides distribution service for an eligible customer-generator
31 is not obligated to provide net energy metering to the customer.

32 (2) If a customer participates in direct transactions pursuant to
33 paragraph (1) of subdivision (b) of Section 365 with an electric
34 service provider, and the customer is an eligible
35 customer-generator, the electricity distribution utility or cooperative
36 that provides distribution service for the direct transactions may
37 recover from the customer's electric service provider the
38 incremental costs of metering and billing service related to net
39 energy metering in an amount set by the ratemaking authority.

1 (g) Except for the time-variant kilowatthour pricing portion of
2 any tariff adopted by the commission pursuant to paragraph (4) of
3 subdivision (a) of Section 2851, each net energy metering contract
4 or tariff shall be identical, with respect to rate structure, all retail
5 rate components, and any monthly charges, to the contract or tariff
6 to which the same customer would be assigned if the customer did
7 not use an eligible solar or wind electrical generating facility,
8 except that eligible customer-generators shall not be assessed
9 standby charges on the electrical generating capacity or the
10 kilowatthour production of an eligible solar or wind electrical
11 generating facility. The charges for all retail rate components for
12 eligible customer-generators shall be based exclusively on the
13 customer-generator's net kilowatthour consumption over a
14 12-month period, without regard to the customer-generator's choice
15 as to whom it purchases electricity that is not self-generated. Any
16 new or additional demand charge, standby charge, customer charge,
17 minimum monthly charge, interconnection charge, or any other
18 charge that would increase an eligible customer-generator's costs
19 beyond those of other customers who are not eligible
20 customer-generators in the rate class to which the eligible
21 customer-generator would otherwise be assigned if the customer
22 did not own, lease, rent, or otherwise operate an eligible solar or
23 wind electrical generating facility are contrary to the intent of this
24 section, and shall not form a part of net energy metering contracts
25 or tariffs.

26 (h) For eligible residential and small commercial
27 customer-generators, the net energy metering calculation shall be
28 made by measuring the difference between the electricity supplied
29 to the eligible customer-generator and the electricity generated by
30 the eligible customer-generator and fed back to the electric grid
31 over a 12-month period. The following rules shall apply to the
32 annualized net metering calculation:

33 (1) The eligible residential or small commercial
34 customer-generator shall, at the end of each 12-month period
35 following the date of final interconnection of the eligible
36 customer-generator's system with an electricity distribution utility
37 or cooperative, and at each anniversary date thereafter, be billed
38 for electricity used during that 12-month period. The electricity
39 distribution utility or cooperative shall determine if the eligible

1 residential or small commercial customer-generator was a net
2 consumer or a net producer of electricity during that period.

3 (2) At the end of each 12-month period, where the electricity
4 supplied during the period by the electricity distribution utility or
5 cooperative exceeds the electricity generated by the eligible
6 residential or small commercial customer-generator during that
7 same period, the eligible residential or small commercial
8 customer-generator is a net electricity consumer and the electricity
9 distribution utility or cooperative shall be owed compensation for
10 the eligible customer-generator's net kilowatthour consumption
11 over that 12-month period. The compensation owed for the eligible
12 residential or small commercial customer-generator's consumption
13 shall be calculated as follows:

14 (A) For all eligible customer-generators taking service under
15 contracts or tariffs employing "baseline" and "over baseline" rates
16 or charges, any net monthly consumption of electricity shall be
17 calculated according to the terms of the contract or tariff to which
18 the same customer would be assigned to, or be eligible for, if the
19 customer was not an eligible customer-generator. If those same
20 customer-generators are net generators over a billing period, the
21 net kilowatthours generated shall be valued at the same price per
22 kilowatthour as the electricity distribution utility or cooperative
23 would charge for the baseline quantity of electricity during that
24 billing period, and if the number of kilowatthours generated
25 exceeds the baseline quantity, the excess shall be valued at the
26 same price per kilowatthour as the electricity distribution utility
27 or cooperative would charge for electricity over the baseline
28 quantity during that billing period.

29 (B) For all eligible customer-generators taking service under
30 contracts or tariffs employing "time-of-use" rates or charges, any
31 net monthly consumption of electricity shall be calculated
32 according to the terms of the contract or tariff to which the same
33 customer would be assigned to, or be eligible for, if the customer
34 was not an eligible customer-generator. When those same
35 customer-generators are net generators during any discrete
36 time-of-use period, the net kilowatthours produced shall be valued
37 at the same price per kilowatthour as the electricity distribution
38 utility or cooperative would charge for retail kilowatthour sales
39 during that same "time-of-use" period. If the eligible
40 customer-generator's "time-of-use" electrical meter is unable to

1 measure the flow of electricity in two directions, subparagraph
2 (A) of paragraph (1) of subdivision (c) shall apply.

3 (C) For all eligible residential and small commercial
4 customer-generators and for each billing period, the net balance
5 of moneys owed to the electricity distribution utility or cooperative
6 for net consumption of electricity or credits owed to the eligible
7 customer-generator for net generation of electricity shall be carried
8 forward as a monetary value until the end of each 12-month period.
9 For all eligible commercial, industrial, and agricultural
10 customer-generators, the net balance of moneys owed shall be paid
11 in accordance with the electricity distribution utility or
12 cooperative's normal billing cycle, except that if the eligible
13 commercial, industrial, or agricultural customer-generator is a net
14 electricity producer over a normal billing cycle, any excess
15 kilowatthours generated during the billing cycle shall be carried
16 over to the following billing period as a monetary value, calculated
17 according to the procedures set forth in this section, and appear as
18 a credit on the eligible customer-generator's account, until the end
19 of the annual period when paragraph (3) shall apply.

20 (3) At the end of each 12-month period, where the electricity
21 generated by the eligible customer-generator during the 12-month
22 period exceeds the electricity supplied by the electricity distribution
23 utility or cooperative during that same period, the eligible
24 customer-generator is a net electricity producer and the electricity
25 distribution utility or cooperative shall retain any excess
26 kilowatthours generated during the prior 12-month period. The
27 eligible customer-generator shall not be owed any compensation
28 for those excess kilowatthours unless the electricity distribution
29 utility or cooperative enters into a purchase agreement with the
30 eligible customer-generator for those excess kilowatthours.

31 (4) The electricity distribution utility or cooperative shall provide
32 every eligible residential or small commercial customer-generator
33 with net electricity consumption information with each regular
34 bill. That information shall include the current monetary balance
35 owed the electricity distribution utility or cooperative for net
36 electricity consumed, or the current amount of excess electricity
37 produced, since the last 12-month period ended. Notwithstanding
38 this subdivision, an electricity distribution utility or cooperative
39 shall permit that customer to pay monthly for net energy consumed.

1 (5) If an eligible residential or small commercial
2 customer-generator terminates the customer relationship with the
3 electricity distribution utility or cooperative, the electricity
4 distribution utility or cooperative shall reconcile the eligible
5 customer-generator's consumption and production of electricity
6 during any part of a 12-month period following the last
7 reconciliation, according to the requirements set forth in this
8 subdivision, except that those requirements shall apply only to the
9 months since the most recent 12-month bill.

10 (6) If an electric service provider or electricity distribution utility
11 or cooperative providing net energy metering to a residential or
12 small commercial customer-generator ceases providing that electric
13 service to that customer during any 12-month period, and the
14 customer-generator enters into a new net energy metering contract
15 or tariff with a new electric service provider or electricity
16 distribution utility or cooperative, the 12-month period, with respect
17 to that new electric service provider or electricity distribution utility
18 or cooperative, shall commence on the date on which the new
19 electric service provider or electricity distribution utility or
20 cooperative first supplies electric service to the customer-generator.

21 (i) Notwithstanding any other provisions of this section, the
22 following provisions shall apply to an eligible customer-generator
23 with a capacity of more than 10 kilowatts, but not exceeding one
24 megawatt, that receives electric service from a local publicly owned
25 electric utility that has elected to utilize a co-energy metering
26 program unless the local publicly owned electric utility chooses
27 to provide service for eligible customer-generators with a capacity
28 of more than 10 kilowatts in accordance with subdivisions (g) and
29 (h):

30 (1) The eligible customer-generator shall be required to utilize
31 a meter, or multiple meters, capable of separately measuring
32 electricity flow in both directions. All meters shall provide
33 "time-of-use" measurements of electricity flow, and the customer
34 shall take service on a time-of-use rate schedule. If the existing
35 meter of the eligible customer-generator is not a time-of-use meter
36 or is not capable of measuring total flow of energy in both
37 directions, the eligible customer-generator shall be responsible for
38 all expenses involved in purchasing and installing a meter that is
39 both time-of-use and able to measure total electricity flow in both
40 directions. This subdivision shall not restrict the ability of an

1 eligible customer-generator to utilize any economic incentives
2 provided by a government agency or an electricity distribution
3 utility or cooperative to reduce its costs for purchasing and
4 installing a time-of-use meter.

5 (2) The consumption of electricity from the local publicly owned
6 electric utility shall result in a cost to the eligible
7 customer-generator to be priced in accordance with the standard
8 rate charged to the eligible customer-generator in accordance with
9 the rate structure to which the customer would be assigned if the
10 customer did not use an eligible solar or wind electrical generating
11 facility. The generation of electricity provided to the local publicly
12 owned electric utility shall result in a credit to the eligible
13 customer-generator and shall be priced in accordance with the
14 generation component, established under the applicable structure
15 to which the customer would be assigned if the customer did not
16 use an eligible solar or wind electrical generating facility.

17 (3) All costs and credits shall be shown on the eligible
18 customer-generator's bill for each billing period. In any months
19 in which the eligible customer-generator has been a net consumer
20 of electricity calculated on the basis of value determined pursuant
21 to paragraph (2), the customer-generator shall owe to the local
22 publicly owned electric utility the balance of electricity costs and
23 credits during that billing period. In any billing period in which
24 the eligible customer-generator has been a net producer of
25 electricity calculated on the basis of value determined pursuant to
26 paragraph (2), the local publicly owned electric utility shall owe
27 to the eligible customer-generator the balance of electricity costs
28 and credits during that billing period. Any net credit to the eligible
29 customer-generator of electricity costs may be carried forward to
30 subsequent billing periods, provided that a local publicly owned
31 electric utility may choose to carry the credit over as a kilowatthour
32 credit consistent with the provisions of any applicable contract or
33 tariff, including any differences attributable to the time of
34 generation of the electricity. At the end of each 12-month period,
35 the local publicly owned electric utility may reduce any net credit
36 due to the eligible customer-generator to zero.

37 (j) A solar or wind turbine electrical generating system, or a
38 hybrid system of both, used by an eligible customer-generator shall
39 meet all applicable safety and performance standards established
40 by the National Electrical Code, the Institute of Electrical and

1 Electronics Engineers, and accredited testing laboratories, including
2 Underwriters Laboratories and, where applicable, rules of the
3 commission regarding safety and reliability. A customer-generator
4 whose solar or wind turbine electrical generating system, or a
5 hybrid system of both, meets those standards and rules shall not
6 be required to install additional controls, perform or pay for
7 additional tests, or purchase additional liability insurance.

8 (k) If the commission determines that there are cost or revenue
9 obligations for an electric corporation, as defined in Section 218,
10 that may not be recovered from customer-generators acting
11 pursuant to this section, those obligations shall remain within the
12 customer class from which any shortfall occurred and may not be
13 shifted to any other customer class. Net energy metering and
14 co-energy metering customers shall not be exempt from the public
15 goods charges imposed pursuant to Article 7 (commencing with
16 Section 381), Article 8 (commencing with Section 385), or Article
17 15 (commencing with Section 399) of Chapter 2.3 of Part 1. In its
18 report to the Legislature, the commission shall examine different
19 methods to ensure that the public goods charges remain
20 nonbypassable.

21 (l) A net energy metering, co-energy metering, or wind energy
22 co-metering customer shall reimburse the Department of Water
23 Resources, or its successor for this purpose, the Department of
24 Energy, for all charges that would otherwise be imposed on the
25 customer by the commission to recover bond-related costs pursuant
26 to an agreement between the commission and the department
27 pursuant to Section 80110 of the Water Code, as well as the costs
28 of the department equal to the share of the department's estimated
29 net unavoidable power purchase contract costs attributable to the
30 customer. The commission shall incorporate the determination
31 into an existing proceeding before the commission, and shall ensure
32 that the charges are nonbypassable. Until the commission has made
33 a determination regarding the nonbypassable charges, net energy
34 metering, co-energy metering, and wind energy co-metering shall
35 continue under the same rules, procedures, terms, and conditions
36 as were applicable on December 31, 2002.

37 (m) In implementing the requirements of subdivisions (k) and
38 (l), a customer-generator shall not be required to replace its existing
39 meter except as set forth in subparagraph (A) of paragraph (1) of
40 subdivision (c), nor shall the electricity distribution utility or

1 cooperative require additional measurement of usage beyond that
2 which is necessary for customers in the same rate class as the
3 eligible customer-generator.

4 (n) It is the intent of the Legislature that the Treasurer
5 incorporate net energy metering, co-energy metering, and wind
6 energy co-metering projects undertaken pursuant to this section
7 as sustainable building methods or distributive energy technologies
8 for purposes of evaluating low-income housing projects.

9 SEC. 315. Section 3302 of the Public Utilities Code is amended
10 to read:

11 3302. As used in this division, unless the context otherwise
12 requires, the following terms have the following meanings:

13 (a) “Act” means the California Consumer Power and
14 Conservation Financing Authority Act.

15 (b) “Authority” means the California Consumer Power and
16 Conservation Financing Authority established pursuant to Section
17 3320 and any board, commission, department, or officer succeeding
18 to the functions thereof, or to whom the powers conferred upon
19 the authority by this division shall be given by law. As of January
20 1, 2010, the Department of Energy shall succeed to the function
21 of the authority, and thereafter, “authority” means the Department
22 of Energy.

23 (c) (Reserved).

24 (d) “Bond purchase agreement” means a contractual agreement
25 executed between the authority and an underwriter or underwriters
26 and, where appropriate, a participating party, whereby the authority
27 agrees to sell bonds issued pursuant to this division.

28 (e) “Bonds” means bonds, including structured, senior, and
29 subordinated bonds or other securities; loans; notes, including
30 bond revenue or grant anticipation notes; certificates of
31 indebtedness; commercial paper; floating rate and variable maturity
32 securities; and any other evidences of indebtedness or ownership,
33 including certificates of participation or beneficial interest, asset
34 backed certificates, or lease-purchase or installment purchase
35 agreements, whether taxable or excludable from gross income for
36 state and federal income taxation purposes.

37 (f) “Cost,” as applied to a program, project, or portion thereof
38 financed under this division, means all or any part of the cost of
39 construction, improvement, repair, reconstruction, renovation, and
40 acquisition of all lands, structures, improved or unimproved real

1 or personal property, rights, rights-of-way, franchises, licenses,
2 easements, and interests acquired or used for a project; the cost of
3 demolishing or removing or relocating any buildings or structures
4 on land so acquired, including the cost of acquiring any lands to
5 which the buildings or structures may be moved; the cost of all
6 machinery and equipment; financing charges; the costs of any
7 environmental mitigation; the costs of issuance of bonds or other
8 indebtedness; interest prior to, during, and for a period after,
9 completion of the project, as determined by the authority;
10 provisions for working capital; reserves for principal and interest;
11 reserves for reduction of costs for loans or other financial
12 assistance; reserves for maintenance, extension, enlargements,
13 additions, replacements, renovations, and improvements; and the
14 cost of architectural, engineering, financial, appraisal, and legal
15 services, plans, specifications, estimates, administrative expenses,
16 and other expenses necessary or incidental to determining the
17 feasibility of any project, enterprise, or program or incidental to
18 the completion or financing of any project or program.

19 (g) "Department" means the Department of Energy.

20 (h) "Enterprise" means a revenue-producing improvement,
21 building, system, plant, works, facilities, or undertaking used for
22 or useful for the generation or production of electric energy for
23 lighting, heating, and power for public or private uses. Enterprise
24 includes, but is not limited to, all parts of the enterprise, all
25 appurtenances to it, lands, easements, rights in land, water rights,
26 contract rights, franchises, buildings, structures, improvements,
27 equipment, and facilities appurtenant or relating to the enterprise.

28 (i) "Financial assistance" in connection with a project, enterprise
29 or program, includes, but is not limited to, any combination of
30 grants, loans, the proceeds of bonds issued by the authority,
31 insurance, guarantees or other credit enhancements or liquidity
32 facilities, and contributions of money, property, labor, or other
33 things of value, as may be approved by resolution of the board;
34 the purchase or retention of authority bonds, the bonds of a
35 participating party for their retention or for sale by the authority,
36 or the issuance of authority bonds or the bonds of a special purpose
37 trust used to fund the cost of a project or program for which a
38 participating party is directly or indirectly liable, including, but
39 not limited to, bonds, the security for which is provided in whole
40 or in part pursuant to the powers granted by this division; bonds

1 for which the authority has provided a guarantee or enhancement;
2 or any other type of assistance determined to be appropriate by
3 the authority.

4 (j) “Fund” means the California Consumer Power and
5 Conservation Financing Fund.

6 (k) “Loan agreement” means a contractual agreement executed
7 between the authority and a participating party that provides that
8 the authority will loan funds to the participating party and that the
9 participating party will repay the principal and pay the interest and
10 redemption premium, if any, on the loan.

11 (l) “Participating party” means either of the following:

12 (1) Any person, company, corporation, partnership, firm,
13 federally recognized California Indian tribe, or other entity or
14 group of entities, whether organized for profit or not for profit,
15 engaged in business or operations within the state and that applies
16 for financial assistance from the authority for the purpose of
17 implementing a project or program in a manner prescribed by the
18 authority.

19 (2) Any subdivision of the state or local government, including,
20 but not limited to, departments, agencies, commissions, cities,
21 counties, nonprofit corporations, special districts, assessment
22 districts, and joint powers authorities within the state or any
23 combination of these subdivisions, that has, or proposes to acquire,
24 an interest in a project, or that operates or proposes to operate a
25 program under Section 3365, and that makes application to the
26 authority for financial assistance in a manner prescribed by the
27 authority.

28 (m) “Program” means a program that provides financial
29 assistance, as provided in Article 6 (commencing with Section
30 3365).

31 (n) “Project” means plants, facilities, equipment, appliances,
32 structures, expansions, and improvements within the state that
33 serve the purposes of this division as approved by the authority,
34 and all activities and expenses necessary to initiate and complete
35 those projects described in Article 5 (commencing with Section
36 3350) and Article 7 (commencing with Section 3368), of Chapter
37 3.

38 (o) “Revenues” means all receipts, purchase payments, loan
39 repayments, lease payments, rents, fees and charges, and all other
40 income or receipts derived by the authority from an enterprise, or

1 by the authority or a participating party from any other financing
2 arrangement undertaken by the authority or a participating party,
3 including, but not limited to, all receipts from a bond purchase
4 agreement, and any income or revenue derived from the investment
5 of any money in any fund or account of the authority or a
6 participating party.

7 (p) "State" means the State of California.

8 SEC. 316. Section 3310 of the Public Utilities Code is amended
9 to read:

10 3310. The department may only exercise its powers pursuant
11 to Article 4 (commencing with Section 3340) of Chapter 3 for the
12 following purposes:

13 (a) Establish, finance, purchase, lease, own, operate, acquire,
14 or construct generating facilities and other projects and enterprises,
15 on its own or through agreements with public and private third
16 parties or joint ventures with public or private entities, or provide
17 financial assistance for projects or programs by participating
18 parties, to supplement private and public sector power supplies,
19 taking into account generation facilities in operation or under
20 development as of the effective date of this section, and to ensure
21 a sufficient and reliable supply of electricity for California's
22 consumers at just and reasonable rates.

23 (b) Finance programs, administered by the department, the
24 commission, and other approved participating parties for consumers
25 and businesses to invest in cost-effective energy efficient
26 appliances, renewable energy projects, and other programs that
27 will reduce the demand for energy in California.

28 (c) Finance natural gas transportation and storage projects under
29 Article 7 (commencing with Section 3368) of Chapter 3.

30 (d) Achieve an adequate energy reserve capacity in California
31 within five years of the effective date of this division.

32 (e) Provide financing for owners of aged, inefficient, electric
33 powerplants to perform necessary retrofits to improve the efficiency
34 and environmental performances of those powerplants.

35 SEC. 317. Section 3320 of the Public Utilities Code is amended
36 to read:

37 3320. (a) The department, also referred to in this division as
38 the authority, shall be responsible for administering this division.

39 (b) The department shall implement the purposes of Chapter 2
40 (commencing with Section 3310), and to that end finance projects

1 and programs in accordance with this division, all to the mutual
2 benefit of the people of the state and to protect their health, welfare,
3 and safety.

4 SEC. 318. Section 3325 of the Public Utilities Code is repealed.

5 SEC. 319. Section 3326 of the Public Utilities Code is repealed.

6 SEC. 320. Section 3327 of the Public Utilities Code is repealed.

7 SEC. 321. Section 3330 of the Public Utilities Code is amended
8 to read:

9 3330. Except as otherwise provided in this section, the
10 department may assign to a designee, those duties generally
11 necessary or convenient to carry out its powers and purposes under
12 this division. Any action involving final approval of any bonds,
13 notes, loans, or other financial assistance shall require the approval
14 of the department.

15 SEC. 322. Section 3340 of the Public Utilities Code is repealed.

16 SEC. 323. Section 3340 is added to the Public Utilities Code,
17 to read:

18 3340. (a) The department is authorized and empowered to do
19 all things generally necessary or convenient to carry out its powers
20 under, and the purposes of, this division.

21 (b) Except as provided in subdivision (c), bonding authority
22 under this division shall not be utilized by the department unless
23 the Secretary of Energy has delivered to the Joint Legislative
24 Budget Committee written notice of intent to exercise that authority
25 at least 30 days in advance. The notice shall reasonably describe
26 the purpose for which the bonding authority will be used and the
27 circumstances that support its use.

28 (c) If the proposed exercise of authority is in response to a
29 declared emergency by the Governor, notice by the Secretary of
30 Energy is not required to be delivered 30 days in advance but shall
31 be delivered to the Joint Legislative Budget Committee as close
32 to 30 days in advance as is feasible under the circumstances.

33 SEC. 324. Section 3341 of the Public Utilities Code is amended
34 to read:

35 3341. In connection with the purposes of this division, the
36 department may do any of the following:

37 (a) Issue bonds, from time to time, as further provided in Chapter
38 5 (commencing with Section 3380.1), to pay all or part of the cost
39 of any enterprise, project, or program, or to otherwise carry out
40 the purposes of this division.

1 (b) Enter into joint powers agreements with eligible public
2 agencies pursuant to Chapter 5 (commencing with Section 6500)
3 of Division 7 of Title 1 of the Government Code.

4 (c) Subject to any statutory or constitutional limitation on their
5 use, do any of the following as may, in the determination of the
6 department, be necessary or convenient for the successful
7 development, conduct, or financing of a project, program, or
8 enterprise, or for carrying out the purposes of this division:

9 (1) Engage the services, including, without limitation, the
10 services of private consultants; attorneys; financial professionals
11 and advisors; engineers; architects; construction, land use and
12 environmental experts; and accountants, to render professional
13 and technical assistance and advice.

14 (2) Contract for engineering, architectural, accounting, or other
15 services of appropriate state agencies.

16 (3) Pay the reasonable costs, including, without limitation, costs
17 of consulting engineers, architects, accountants, and construction,
18 land use, and environmental experts employed by the department
19 or any participating party. Except as otherwise provided in Section
20 3341.5, those costs shall be recovered from participating parties.

21 (d) Acquire, lease, take title to, and sell by installment sale or
22 otherwise, lands, structures, real or personal property, rights,
23 rights-of-way, franchises, easements, and other interests in lands
24 that are located within the state, as the department determines to
25 be necessary or convenient for an enterprise or the financing of a
26 project, upon terms and conditions the department considers to be
27 reasonable.

28 (e) Make, receive, or serve as a conduit for the making of, or
29 otherwise provide for, grants, contributions, guarantees, insurance,
30 credit enhancements or liquidity facilities, or other financial
31 enhancements to a participating party as financial assistance for a
32 project or program. The sources may include bond proceeds,
33 dedicated taxes, state appropriations, federal appropriations, federal
34 grants and loan funds, public and private sector retirement system
35 funds, and proceeds of loans from the Pooled Money Investment
36 Account, or any other source of money, property, labor, or other
37 things of value.

38 (f) Make loans to any participating party, either directly or by
39 making a loan to a lending institution or other financial
40 intermediary, in connection with the financing of a project or

1 program in accordance with an agreement between the department
2 and a participating party, either as a sole lender or in participation
3 with other lenders.

4 (g) Make loans to any participating party, either directly or by
5 making a loan to a lending institution, in accordance with an
6 agreement between the department and the participating party to
7 refinance indebtedness incurred by the participating party in
8 connection with projects undertaken and completed prior to any
9 agreement with the department or expectation that the department
10 would provide financing, either as a sole lender or in participation
11 with other lenders. The power generated by those projects shall
12 be subject to the terms and conditions specified by the department
13 in the agreement and pursuant to Section 3351.

14 (h) Mortgage all or any portion of the department's interest in
15 a project or enterprise and the property on which any project or
16 enterprise is located, whether owned or thereafter acquired,
17 including the granting of a security interest in any property,
18 tangible or intangible.

19 (i) Assign or pledge all or any portion of the department's
20 interest in assets, things of value, mortgages, deeds of trust, bonds,
21 bond purchase agreements, loan agreements, indentures of
22 mortgage or trust, or similar instruments, notes, and security
23 interests in property, tangible or intangible and the revenues
24 therefrom, of a participating party to which the department has
25 made loans, and the revenues therefrom, including payment or
26 income from any interest owned or held by the department, for the
27 benefit of the holders of bonds.

28 (j) Lease the project being financed to a participating party,
29 upon terms and conditions that the department deems proper;
30 charge and collect rents therefor; terminate any lease upon the
31 failure of the lessee to comply with any of the obligations thereof;
32 include in any lease, if desired, provisions that the lessee shall
33 have options to renew the lease for a period or periods, and at rents
34 determined by the department; purchase any or all of the project;
35 or, upon payment of all the indebtedness incurred by the
36 department for the financing of the project, the authority may
37 convey, any or all of the project to the lessee or lessees. The power
38 generated by those projects shall be subject to the terms and
39 conditions specified by the department in the agreement and
40 pursuant to Section 3351.

1 (k) (1) Issue, obtain, or aid in obtaining, from any department
2 or agency of the United States, from other agencies of the state,
3 or from any private company, any insurance or guarantee to or for,
4 or any letter or line of credit regarding, the payment or repayment
5 of interest or principal, or both, or any part thereof, on any bond,
6 loan, lease, or obligation or any instrument evidencing or securing
7 the same, made or entered into pursuant to this division.

8 (2) Notwithstanding any other provision of this division, enter
9 into any agreement, contract or other instrument regarding any
10 insurance, guarantee, letter or line of credit specified in paragraph
11 (1), and accept payment in the manner and form provided therein
12 in the event of default by a participating party.

13 (3) Assign any insurance, guarantee, letter or line of credit
14 specified in paragraph (1) as security for bonds issued by the
15 department.

16 (l) Enter into any agreement or contract, execute any instrument,
17 and perform any act or thing necessary or convenient to, directly
18 or indirectly, secure the department's bonds or a participating
19 party's obligations to the department, including, but not limited
20 to, bonds of a participating party purchased by the department for
21 retention or sale, with funds or moneys that are legally available
22 and that are due or payable to the participating party by reason of
23 any grant, allocation, apportionment, or appropriation of the state
24 or agencies thereof, to the extent that the Controller shall be the
25 custodian at any time of these funds or moneys, or with funds or
26 moneys that are or will be legally available to the participating
27 party, the department, or the state or any agencies thereof by reason
28 of any grant, allocation, apportionment, or appropriation of the
29 federal government or agencies thereof; and in the event of written
30 notice that the participating party has not paid or is in default on
31 its obligations to the department, direct the Controller to withhold
32 payment of those funds or moneys from the participating party
33 over which it is or will be custodian and to pay the same to the
34 department or its assignee, or direct the state or any agencies
35 thereof to which any grant, allocation, apportionment, or
36 appropriation of the federal government or agencies thereof is or
37 will be legally available to pay the same upon receipt to the
38 department or its assignee, until the default has been cured and the
39 amounts then due and unpaid have been paid to the department or

1 its assignee, or until arrangements satisfactory to the department
2 have been made to cure the default.

3 (m) Purchase, with the proceeds of the department's bonds,
4 bonds issued by, or for the benefit of, any participating party in
5 connection with a project, pursuant to a bond purchase agreement
6 or otherwise. Bonds purchased pursuant to this division may be
7 held by the department, pledged or assigned by the department,
8 or sold to public or private purchasers at public or negotiated sale,
9 in whole or in part, separately or together with other bonds issued
10 by the department, and notwithstanding any other provision of
11 law, may be bought by the department at private sale.

12 (n) Enter into purchase and sale agreements with all entities,
13 public and private, including state and local government pension
14 funds, with respect to the sale or purchase of bonds.

15 SEC. 325. Section 3341.1 of the Public Utilities Code is
16 amended to read:

17 3341.1. In connection with an enterprise, the department may
18 do any or all of the following:

19 (a) Acquire any enterprise by gift, purchase, or eminent domain
20 as necessary to achieve the purposes of the department pursuant
21 to Sections 3310 and 3352.

22 (b) Construct or improve any enterprise. By gift, lease, purchase,
23 eminent domain, or otherwise, it may acquire any real or personal
24 property, for an enterprise, except that no property of a state public
25 body may be acquired without its consent. The department may
26 sell, lease, exchange, transfer, assign, or otherwise dispose of any
27 real or personal property or any interest in such property. It may
28 lay out, open, extend, widen, straighten, establish, or change the
29 grade of any real property or public rights-of-way necessary or
30 convenient for any enterprise.

31 (c) Operate, maintain, repair, or manage all or any part of any
32 enterprise, including the leasing for commercial purposes of surplus
33 space or other space that is not economic to use for such enterprise.

34 (d) Adopt reasonable rules or regulations for the conduct of the
35 enterprise.

36 (e) Prescribe, revise, and collect charges for the services,
37 facilities, or energy furnished by the enterprise. The charges shall
38 be established and adjusted so as to provide funds sufficient with
39 other revenues and moneys available therefor, if any, to (1) pay
40 the principal of and interest on outstanding bonds of the department

1 financing such enterprise as the same shall become due and
2 payable, (2) create and maintain reserves, including, without
3 limitation, operating and maintenance reserves and reserves
4 required or provided for in any resolution authorizing, or trust
5 agreement securing such bonds, and (3) pay operating and
6 administrative costs of the department.

7 (f) Execute all instruments, perform all acts, and do all things
8 necessary or convenient in the exercise of the powers granted by
9 this article.

10 SEC. 326. Section 3341.2 of the Public Utilities Code is
11 amended to read:

12 3341.2. In connection with a project, the department may do
13 any or all of the following:

14 (a) Determine the location and character of any project to be
15 financed under this division.

16 (b) Acquire, construct, enlarge, remodel, renovate, alter,
17 improve, furnish, equip, own, maintain, manage, repair, operate,
18 lease as lessee or lessor, or regulate any project to be financed
19 under this division.

20 (c) Contract with any participating party for the construction of
21 a project by such participating party.

22 (d) Enter into leases and agreements, as lessor or lessee, with
23 any participating party relating to the acquisition, construction,
24 and installation of any project, including real property, buildings,
25 equipment, and facilities of any kind or character.

26 (e) Establish, revise, charge and collect rates, rents, fees and
27 charges for a project. The rates, rents, fees, and charges shall be
28 established and adjusted in respect of the aggregate rates, rents,
29 fees, and charges from all projects so as to provide funds sufficient
30 with other revenues and moneys available therefor, if any, to (1)
31 pay the principal of and interest on outstanding bonds of the
32 department financing such project as the same shall become due
33 and payable, (2) create and maintain reserves, including, without
34 limitation, operating and maintenance reserves and reserves
35 required or provided for in any resolution authorizing, or trust
36 agreement securing such bonds, and (3) pay operating and
37 administrative costs of the department.

38 (f) Enter into contracts of sale with any participating party
39 covering any project financed by the department.

1 (g) As an alternative to leasing or selling a project to a
2 participating party, finance the acquisition, construction, or
3 installation of a project by means of a loan to the participating
4 party.

5 (h) Execute all instruments, perform all acts, and do all things
6 necessary or convenient in the exercise of the powers granted by
7 this article.

8 SEC. 327. Section 3345 of the Public Utilities Code is amended
9 to read:

10 3345. The department's operating budget under this division
11 shall be subject to review and appropriation in the annual Budget
12 Act. For purposes of this section, the department's operating budget
13 under this division shall include the costs of personnel,
14 administration, and overhead attributable to carrying out this
15 division.

16 SEC. 328. Section 3370 of the Public Utilities Code is amended
17 to read:

18 3370. (a) There is hereby created in the State Treasury the
19 California Consumer Power and Conservation Financing Fund for
20 expenditure by the department for the purpose of implementing
21 the objectives and provisions of this division. For the purposes of
22 subdivision (e), or as necessary or convenient to the
23 accomplishment of any other purpose of the department, the
24 department may establish within the fund additional and separate
25 accounts and subaccounts.

26 (b) The assets of the fund shall be available for the payment of
27 the salaries and other expenses charged against it in accordance
28 with this division.

29 (c) Except as provided under Section 3345, all moneys in the
30 fund that are not General Fund moneys are continuously
31 appropriated to the department and may be used for any reasonable
32 costs that may be incurred by the department in the exercise of its
33 powers under this division.

34 (d) The fund, on behalf of the department, may borrow or
35 receive moneys from the department, or from any federal, state,
36 or local agency or private entity, to create reserves in the fund as
37 provided in this division and as authorized by the board.

38 (e) The department may pledge any or all of the moneys in the
39 fund (including in any account or subaccount) as security for

1 payment of the principal of, and interest on, any particular issuance
2 of bonds issued pursuant to this division.

3 (f) The department, may, from time to time, direct the Treasurer
4 to invest moneys in the fund that are not required for the
5 department's current needs, including proceeds from the sale of
6 any bonds, in any securities permitted by law as the department
7 shall designate. The department also may direct the Treasurer to
8 deposit moneys in interest-bearing accounts in state or national
9 banks or other financial institutions having principal offices in this
10 state. The department may alternatively require the transfer of
11 moneys in the fund to the Surplus Money Investment Fund for
12 investment pursuant to Article 4 (commencing with Section 16470)
13 of Chapter 3 of Part 2 of Division 4 of the Government Code. All
14 interest or other increment resulting from an investment or deposit
15 shall be deposited in the fund, notwithstanding Section 16305.7
16 of the Government Code. Moneys in the fund shall not be subject
17 to transfer to any other fund pursuant to any provision of Part 2
18 (commencing with Section 16300) of Division 4 of the Government
19 Code, excepting the Surplus Money Investment Fund.

20 SEC. 329. Section 9502 of the Public Utilities Code is amended
21 to read:

22 9502. On or before December 1, 1994, and on a biennial basis
23 thereafter, each publicly owned electric and gas utility shall submit
24 a report to the Department of Energy describing the status of their
25 low-income weatherization programs required by Sections 9500
26 and 9501. Thereafter, as part of the biennial conservation report
27 prepared pursuant to Section 25401.1 of the Public Resources
28 Code, the department shall report to the Legislature summarizing
29 publicly owned utility efforts to comply with Sections 9500 and
30 9501.

31 SEC. 330. Section 80000 of the Water Code is amended to
32 read:

33 80000. The Legislature hereby finds and declares all of the
34 following:

35 (a) The furnishing of reliable reasonably priced electric service
36 is essential for the safety, health, and well-being of the people of
37 California. A number of factors have resulted in a rapid, unforeseen
38 shortage of electric power and energy available in the state and
39 rapid and substantial increases in wholesale energy costs and retail
40 energy rates, with statewide impact, to such a degree that it

1 constitutes an immediate peril to the health, safety, life and property
2 of the inhabitants of the state, and the public interest, welfare,
3 convenience and necessity require the state to participate in markets
4 for the purchase and sale of power and energy.

5 (b) In order for the state to adequately and expeditiously
6 undertake and administer the critical responsibilities established
7 in this division, it must be able to obtain, in a timely manner,
8 additional and sufficient personnel with the requisite expertise and
9 experience in energy marketing, energy scheduling, and accounting.

10 SEC. 331. Section 80001 is added to the Water Code, to read:

11 80001. The Department of Energy hereby succeeds to and is
12 vested with all powers, duties, rights, assets, responsibilities,
13 obligations, liabilities, and jurisdiction previously vested with the
14 Department of Water Resources under this division. Whenever
15 the term “department” is used in this division, it shall henceforth
16 mean the Department of Energy. Any authority conferred upon
17 the Department of Water Resources by any other provision of law
18 for the purpose of carrying out any function described in this
19 division is hereby vested in, and may be exercised by, the
20 Department of Energy. The transfer of functions described in this
21 division to the Department of Energy does not in any way
22 invalidate or alter prior actions undertaken by the Department of
23 Water Resources under this division and every instrument,
24 obligation, rate entitlement, or other rights resulting from the prior
25 actions remain fully in effect.

26 SEC. 332. Section 80001.5 is added to the Water Code, to read:

27 80001.5. (a) All officers and employees of the Department of
28 Water Resources who, on January 1, 2010, are serving in the state
29 civil service, other than as temporary employees, and are exercising
30 any duty, power, purpose, responsibility, or jurisdiction to which
31 the Department of Energy succeeds pursuant to Section 80001,
32 are transferred to the Department of Energy. The status, positions,
33 and rights of those persons existing prior to the transfer shall not
34 be affected by the transfer and shall be retained by those persons
35 as officers and employees of the Department of Energy, pursuant
36 to the State Civil Service Act (Part 2 (commencing with Section
37 18500) of Division 5 of Title 2 of the Government), except as to
38 positions exempted from civil service.

39 (b) The Department of Energy shall have possession and control
40 of all records, papers, offices, equipment, supplies, moneys, funds,

1 appropriations, licenses, permits, agreements, contracts, claims,
2 judgments, and land or other property, real or personal, connected
3 with the administration of, or held for the benefit or use of the
4 Department of Water Resources for the performance of the
5 functions transferred to the Department of Energy by Section
6 80001.

7 (c) All rules, orders, and decisions of the Department of Water
8 Resources in effect immediately preceding the effective date of
9 this section shall remain in effect and shall be fully enforceable
10 unless and until readopted, amended, or repealed, or until they
11 expire by their own terms.

12 (d) No contract, lease, license, bond, or any other agreement to
13 which the Department of Water Resources is a party shall be void
14 or voidable by reason of the transfer of functions to the Department
15 of Energy by Section 80001, but shall continue in full force and
16 effect, with the Department of Energy assuming all of the rights,
17 obligations, liabilities, and duties of the Department of Water
18 Resources. The assumption by the Department of Energy shall not
19 in any way affect the rights of the parties to the contract, lease,
20 license, bond, or other agreement.

21 SEC. 333. The provisions of this act are severable. If any
22 provision of this act or its application is held invalid, that invalidity
23 shall not affect other provisions or applications that can be given
24 effect without the invalid provision or application.